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CIS

ELEMENTS OF BLOCK GRANTS

HEARING

BEFORE THE

SUBCOMMITTEE ON
INTERGOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

OCTOBER 6, 1981

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ELEMENTS OF BLOCK GRANTS

TUESDAY, OCTOBER 6, 1981

U.S. Senate,
Subcommittee on Intergovernmental Relations,
Committee on Governmental Affairs,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room 357, Russell Senate Office Building, Hon. Dave Durenberger (chairman of the subcommittee) presiding.

Present: Senator Durenberger.

OPENING STATEMENT OF SENATOR DURENBERGER

Senator **Durenberger**. The hearing will come to order.

This morning we will take up the subject of block grants. Over the past year, in considering grant reform, grant formulas, and specific grant programs like the community development block grant, this subcommittee has built a detailed record on the need for better management and more flexibility in the administration of the approximately 500 grant programs which are on the books today.

We have made some positive steps toward returning responsibility for program management to State and local governments. The subcommittee reported S. 807, the grant reform bill, as expeditiously as we could and the legislation has moved to the Senate floor with the hope of early action by the full Senate. This bill, sponsored by Senator Roth, would encourage the President to propose administrative consolidations of the many categoricals which make the intergovernmental system so confusing to bureaucrats, citizens, State and local officials, and even the Congress which continues, nevertheless, to add to the proliferation of categorical programs.

S. 807 lies before the Senate and the commitment to its passage does not wane in this subcommittee or among its members. However, it appears to this Senator that our commitment to simplify the intergovernmental system needs to take other forms as well.

The reconciliation process—begun last winter by the President and completed in July by the Congress—makes it clear that, despite some long experience with the block grant mechanisms, there are several issues of technique that remain to be resolved. The nine block grants—nine depending on how you define block grants—included in the Reconciliation Act are built on several management devices. There are a variety of audit, reporting, planning, hearing and regulatory requirements sprinkled throughout the several hundred pages of the act. Reconciliation also has its own crosscutting block grant management title.

I don't know where Rich Williamson found the two piles of papers the President waived the other day, but I don't believe we accomplished grant reform by cutting regulations to six pages.

It is our purpose here this morning to consider the product of the reconciliation process and determine whether and where refinements can be made.

Advance discussions with today's witnesses suggest that improvements are indeed desirable. In fact, the prehearing discussion has focused on several drafts of what might be called boilerplate language for block grant management. I will now make our latest draft a part of this hearing record and quickly suggest our intentions before turning to the witnesses.

[The draft referred to follows:]

STATEMENT OF PURPOSE

SEC. 101. The purpose of this Act is to provide greater flexibility to recipients in the use of funds provided under this Act, and to enable recipients to more fully participate in the allocation of such funds, while assuring that the stated objectives of the programs authorized under this Act are met.

DEFINITIONS

SEC. 102 (a) For purposes of this Act:

(1) The term "agency" means an executive agency as defined in Section 105 of title 5, United States Code, responsible for the administration of a program authorized by this Act, as used throughout this Act, except where designated as a state agency;

(2) the term "agency head" means the secretary, or any other person charged with the management of a program authorized under this Act, where such agency is the agency responsible for the administration of a program authorized by this Act;

(3) the term "generally applicable requirement," means any requirement, (i) with which a recipient of funds under this Act is required to comply under federal law or administrative rule or regulation in order to achieve national policy objectives, and (ii) which applies to programs authorized by this Act and to other assistance programs which are administered by an agency under this Act, regardless of whether such requirement is contained in one or more of such laws, rules, or regulations;

(4) the term "recipient," includes any entity of state or local government or regional consortia of local governments eligible to receive funds for administration under this Act;

(5) the term "subrecipient," includes any entity or unit of local government or regional consortia of local governments, or any other public or private entity designated by a recipient to administer, expend, and allocate funds authorized by this Act.

APPLICATION AND COORDINATION

SEC. 103. (a) Each unit of state or local government eligible to be a recipient of funds authorized by this Act shall submit an application for each fiscal year in which funds are to be received.

(b) The application required by subsection (a) of this section shall be submitted 30 days prior to the beginning of the fiscal year for all fiscal years in which funds are distributed under this Act, except for the fiscal year in which this Act becomes effective.

(c) The application required by subsection (a) of this section shall include a statement of the recipient's plan for use of the funds, information on the types of programs to be supported and the individuals who will be benefited by expenditure of the funds, and assurances that all requirements of this Act will be met by the recipient. For each fiscal year after the fiscal year in which this Act becomes effective, the statement required by this subsection shall include a brief report on the use of funds authorized by this Act and administered by the recipient in the previous fiscal year.

(d) In compiling the statement required by subsection (c), each recipient of funds authorized by this Act shall consult with elected officials of state and local governments and officials of regional planning and coordination agencies for units of local government.

(e) Each recipient of funds authorized by this Act, shall make public the statement required by subsection (c) of this section, and shall conduct public hearings to receive comment on this statement. Each unit of state or local government which is eligible to administer funds authorized by this Act as a subrecipient shall be notified of the hearing required by this subsection.

(f) The agency head shall, upon receipt of the application required by subsection (a) of this section, provide for the distribution of funds authorized by this Act, if the application assures that the proposed use of the funds is consistent with the purposes of the programs authorized by this Act.

(g) The provisions of this section are performance standards, and the agency head may not prescribe the manner of compliance with the requirements of this section. No provision of this section shall create a new or additional right to sue.

NONDISCRIMINATION

SEC. 104. (a) No person shall, on the grounds of race, religion, sex, age, national origin or handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds provided under this Act.

(b) This section shall not create any new or additional right to sue.

TRANSITION PROVISION

SEC. 105. (a) Each recipient shall certify to the agency head that it is prepared to administer all or part of the funds authorized by this Act. Such certification shall be a simple communication from the chief executive or administrative officer of the recipient government. The certification shall be submitted by each recipient to the agency head prior to the beginning of the first quarter in a fiscal year after the quarter in which this Act becomes effective, or at least 30 days prior to the beginning of any of the three succeeding quarters. The quarters of the fiscal year shall, for the purposes of this section, begin on October 1, January 1, April 1, and July 1.

(b) Each agency shall, until such time as it receives a certification from a recipient as provided in subsection (a), administer funds authorized by this Act in accordance with the provisions of those programs, the authorizations of which are discontinued by this Act, except as the provisions of this Act alter the amount of funds to which a recipient is entitled.

[NOTE: Section 106 Allocation of Funds, and Section 107 Administration have been deleted from the draft. Section 108 Appropriations has been modified to require a report from the agency head to the Congress.]

AGENCY REPORTS

SEC. 108 (a) Beginning one year after the initial allocation of funds authorized by this Act, and for every year thereafter, in which an allocation of funds is made pursuant to a program authorized under this Act, the agency head shall report to the Congress on the activities of recipients of funds under this Act.

USE OF FUNDS

SEC. 109 (a) A recipient of funds under this Act may use payments made to it from allotments authorized by this Act to provide for any activity or service consistent with the purpose of the program authorized under this Act.

(b) A recipient of funds under this Act may use payments made to it from allotments authorized by this Act in an amount not to exceed ten (10) percent for the purpose of meeting administrative costs of the program(s) authorized under this Act.

AUDITS

SEC. 110 (a) There shall be an independent audit of the financial accountability of each recipient of funds under this Act. A financial and compliance audit (as defined by the Comptroller General of the United States) of the recipient or appropriate unit of the recipient, performed for other purposes will be accepted in satisfaction of this requirement.

(b) Audits required by subsection (a) shall be conducted with respect to each two-year or shorter period beginning after the effective date of program(s) authorized under this Act and coinciding with the fiscal year of the recipient.

(c) Audits required by subsection (a) shall be conducted in accordance with applicable standards established by the Comptroller General for the audit of governmental organizations, programs, activities and functions. They shall be conducted by independent auditors which are properly constituted governmental agencies, or public accountants as defined in the Comptroller General's standards.

(d) The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall establish and approve a quality review process that can be used to establish the capability of an audit organization to perform in accordance with the Comptroller General's standards.

(e) Each recipient shall have the option to arrange for the required audit. Existing laws, policies, and regulations of the recipient may be used in arranging for the audit. Any audit organization designated to perform the audit shall submit to the quality review process set forth in subsection (d), or equivalent process, except that this requirement shall not be imposed until eighteen months after official publication of the process in the Federal Register.

(f) Audit reports shall be submitted to the agency head within six months of the fiscal year end of the recipient.

(g) The agency head shall, if the independent audits arranged for by the recipient are deemed to have been performed in accordance with the standards prescribed in subsection (c), rely on those audits and any additional audit work already done. Nothing in this subsection limits the authority of the agency head to conduct additional audits of recipients under this Act where there is evidence of fraud or other violation of federal law.

(h) The agency head is authorized to approve payments from funds provided by this Act for any audit or part of an audit arranged for by a recipient and for the appropriate share of any quality review performed to meet the requirements of this Act. A portion of the funds provided under this Act shall be reserved by the agency head to serve as payment for such an audit or part of an audit.

ACCESS TO RECORDS BY THE COMPTROLLER GENERAL

SEC. 111. For the purposes of evaluating and reviewing the use of funds provided under this Act, the Comptroller General shall have access to any books, records, correspondence, or other documents that are related to such funds and are in the possession, custody or control of a recipient or subrecipient of funds under this Act.

NATIONAL POLICY ASSISTANCE STANDARDS

SEC. 112. (a) Any laws, regulations, directions, standards, reporting requirements and compliance and enforcement procedures issued or promulgated by a recipient of funds under this Act, which is a unit of state or local government, shall be certified to be in compliance with general applicable requirements through a simple certification process to an agency head. The agency head shall consider that the recipient is in full compliance with applicable requirements unless otherwise determined through an informal hearing process. The recipient shall have the right to appeal any findings of noncompliance through an appeals process.

(b) Where an agency designated as the lead agency for any generally applicable requirement has certified that a recipient of funds under this Act, which is a unit of state or local government, is in compliance with such requirement, the agency head of the agency administering the funds authorized by this Act shall consider that the recipient is in full compliance with such requirement.

OVERSIGHT OF FUNDS

SEC. 113. Notwithstanding any other provision of law, no part of this Act or regulation promulgated pursuant to this Act, shall be construed as superseding procedures established by units of state or local government for appropriating and expending funds provided under this Act or for designating the state or local agency or other entity to administer or implement any programs authorized under this Act.

REGULATORY PROVISIONS

SEC. 114. (a) Regulations promulgated pursuant to those programs the authorizations of which are superseded by this Act are repealed upon the effective date of regulations promulgated pursuant to this Act.

(b) Prior to promulgation of any new regulations pursuant to this Act, the agency shall provide recipients eligible for funds under this Act with advance notice of all proposed regulations and shall allow recipients an opportunity to comment under the proposed regulations and to submit recommendations to the agency head for appropriate changes in the regulations.

(c) Prior to promulgation of any new regulations pursuant to this Act, the agency head shall consult with units of state or local government, or their representatives or representatives of their organizations, which were eligible to receive funds pursuant to those programs the authorizations of which are superseded by this Act, but who are not eligible as recipients under the provisions of this Act.

(d) Consultations conducted pursuant to subsections (b) and (c) of this section shall not be governed by the procedures established by the Federal Advisory Committee Act or regulations promulgated under authority of that Act.

(e) Notwithstanding subsection (a) of this section, whenever, an agency adopts a change in any regulation for the administration of a program authorized under this Act, or in any statement or document of such agency specifying the conditions for the receipt of funds provided under this Act, and in the opinion of the agency head a recipient has made a substantial commitment of time and expenditures in administering or applying for the funds provided under this Act, pursuant to the provisions of the existing regulations, statement, or document, the agency head may waive for such recipient compliance with the change in provision of the regulation, statement, or document affecting a program authorized by this Act. The agency head shall not grant a waiver that has the effect of diminishing or detracting from any requirement of law or fulfillment of any affected program which is authorized by this Act.

(f) Regulations promulgated pursuant to this Act shall be as simple as practicable and shall not add new requirements beyond those specifically required by this Act.

(g) Where this Act does not require specific action by the recipient, the agency head shall accept the recipients decisions and actions.

[NOTE: Section 115. Transfer of Funds has been deleted. This issue along with guaranteed pass-through will be taken up as items separate from the draft language.]

Senator DURENBERGER. Provided that we can reach a reasonable consensus on the important elements of every block grant, and to the extent we can rely on—as we have—the expertise of our witnesses and their organizations to help us perfect legislative language to implement these elements, we will use the product of this hearing in several ways. The subcommittee will report to the full committee and to other appropriate committees of the Congress in a way which may be described as educational. We will use today's testimony to convince other committees of the value of these elements and the most direct approach to their implementation.

Second, we will circulate our report widely with some insistence among policymakers in the administration. Our purpose is to make sure that future block grants do not suffer the infirmities of those we passed in July. We have been promised a formal reply from the administration on the issues we raise.

Finally, I may introduce the language which results from our work, as an amendment to the Reconciliation Act to clarify and simplify the block grants we have already enacted.

I want to thank our witnesses for the assistance they have already provided the subcommittee in drafting the language we will consider this morning. I welcome you all and will allow you all to say your piece.

The first witnesses will testify in a panel—called our local panel: Bart Russell, executive director, National Association of Towns and Townships; John Gunther, executive director, U.S. Conference of Mayors; Bernie Hillenbrand, executive director, National Association of Counties; and George Gross, director of Federal Relations, National League of Cities. Would the four members of the local panel come forward? Probably the most appropriate way to proceed is in the order of introduction. That would put Bart Russell up first.

TESTIMONY OF BARTON D. RUSSELL, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF TOWNS AND TOWNSHIPS; GEORGE GROSS, DIRECTOR OF FEDERAL RELATIONS, NATIONAL LEAGUE OF CITIES; JOHN J. GUNTHER, EXECUTIVE DIRECTOR, U.S. CONFERENCE OF MAYORS; AND BERNARD F. HILLENBRAND, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF COUNTIES

Mr. RUSSELL. Mr. Chairman, I cannot, like Rich Williamson, claim that my testimony is concise and will fit into six pages, but I do assure you that we will keep it short. I think our points will be salient and will be close to six pages.

Before beginning my testimony this morning, I would like to thank you, Mr. Chairman, for inviting NATaT to share its views with this subcommittee as it drafts language for block grant legislation. We commend the subcommittee for its work in this regard and hope that NATaT's recommendations will contribute to a manageable and effective block grant system for State and local governments.

We are, of course, concerned, as you know very well, with the special requirements of smaller jurisdictions whose resources have historically been very limited but whose needs are often extensive.

The National Association of Towns and Townships believes that block granting, as a concept, represents a positive change from the present system of complex categorical grants. Most of these categorical grants have had confusing program requirements and have resulted in high grantsmanship costs, both of which have meant that small towns have been effectively denied access to all but a relative handful of Federal assistance programs.

Consolidating and transferring Federal programs to the States is an idea which presents smaller localities with a particularly good opportunity, I might say for the first time, to participate in programs which they have needed in the past. States now have a chance to serve small towns in a way that the Federal Government could not. They are closer to them and can respond to their special local needs. However, the Congress, States, and towns must work together to assure that this potential is realized.

NATaT's research has shown that States have generally not made even cursory efforts to reach out to smaller localities. We have found that not many State governments know that much about the special nature and character of local government in smaller communities, and to date have undertaken relatively few outreach assistance efforts. It is from this perspective and from the vantage point of our predominantly nonmetro membership that I will address block grants today as a system of Federal aid.

In order to insure that the President's program for economic recovery becomes, indeed, a national program which reaches out to the grassroots as well as the more urban, industrialized areas, all units of local government, regardless of their size or type, should be guaranteed eligibility in the block grant program. States should not be able to prevent any locality from participation. Guaranteed access throughout the entire process for all local governments is critical to the success of this program in particular and our Nation's economic recovery program in general.

In this regard, NATaT recommends that block grant legislation provide for the creation of State advisory bodies, with representatives from smaller localities as well as other jurisdictions, to work out the details of block grant programs from the beginning as they are developed. We hesitate to recommend the creation of yet another advisory body, but we think particularly at this stage of the development of the block grant process it's critical to guarantee that rural communities as well as large cities have input into the development process.

In addition, NATaT has several other suggestions.

If a particular program has been used extensively by smaller communities, and I mean a Federal program, there should be a hold-harmless provision to assure these small towns will still be eligible to participate as the programs are transferred to the State level and they get their share of funds commensurate with their previous share. For example, if a Federal program had a 30-percent set-aside for communities under 50,000 in population, this set-aside should be continued when transferred to the States.

Small community set-asides as provided for with the community development block grant program should be a part of all block grant formulas, in our opinion. Many smaller localities may not have been able to participate in Federal programs in the past, particularly due to the complexities of these programs, even though they were eligible and had a demonstrable need. A set-aside would insure the communities outside the high density population areas, thousands of small, predominantly nonmetro towns, would have at least the opportunity—it doesn't mean they are all going to do it--but they at least have the opportunity to pursue these programs and obtain a minimal fair share of resources.

Because of limited resources, many small towns have had difficulty in applying for assistance in block grant programs on their own. We think this is a critical point. States should be encouraged to give favorable consideration to voluntary multijurisdictional applications which involve so-called interlocal agreements among a number of small communities.

Another fundamental element to a block grant program involves technical assistance. It is kind of a hackneyed Federal phrase, but when it actually plays itself out on the local level it is critical to the small communities. Most smalltown officials have had no experience with Federal programs. They need to be educated and informed about how to participate or why they should participate. They need to learn how to understand State block grant terms and the mechanics of applying and taking part in the programs. I know in Minnesota your experience, particularly with townships, would bear this out. States should be required to hold briefing sessions which provide local officials with details of these new State programs. More detailed, workshop-style instructional programs should also be offered.

Townships and other small communities have in the past faced serious burdens in attempting to cope with Federal programs and regulatory requirements. From the inordinately high expenses often related to the submission of grant and loan applications to the cost of complex audit procedures, small local governments have been confronted with a host of unnecessarily difficult and inflexible procedures. Block grant requirements should eliminate unnecessary reports and minimize and simplify financial management procedures.

In this regard, NATaT recommends the following: State governments should be allowed broad latitude in ascertaining if local governments are meeting certified Federal standards, specific federally designed audits where forms should not be required.

If any evaluations, audits, or other assurances of compliance by the Federal Government are required, States should be given broad discretionary power to apply these Federal standards and requirements in ways which minimize burdens on localities and which take full account of already existing State and Federal requirements and unique local conditions. States should be allowed to concern themselves with the substance of honest, effective, and efficient use of funds by localities. Duplication of cumbersome, excessive Federal requirements at the State level would be inefficient, ineffective, and in this day and age fly in the face of what the block grant concept is all about.

Public hearing requirements should not be required for small jurisdictions unless funding is forthcoming to the locality involved. They are difficult and costly for these small towns to undertake and, as already stated, should not be mandated unless they are part and parcel to the program and under funding.

I think we all can appreciate the nature of smalltown government across the country. We have varying ways in which local officials reach out to their citizens from the annual meeting. Small towns are small and, therefore, local officials by their very nature have everyday kinds of contacts with the people they represent. So I think there is less of a need for a formal public hearing, particularly in rural communities.

Mr. Chairman, we recognize that one of the great advantages in block granting efforts is the lessening of the heavy regulatory burden which has so often accompanied Federal assistance. However, any new system must have what we call a shakedown cruise to assure efficient operation, and the new State block grant programs are no exception. As these new programs begin to take shape across the country, an objective search, examination of the progress State governments are making in implementing this congressional mandate, would provide Federal, State and local governments with a much needed opportunity to suggest improvements where they are necessary.

NATaT is, of course, particularly concerned with making certain that small communities are given full and equal access to all new State block grant programs. Scheduled oversight hearings on the State block grants would provide Congress with an ideal opportunity to assist in the creation of an efficient, equitable program which serves small communities and others as economically and effectively as possible.

There are just a couple of other points that are germane to the block granting process which affect all State and local governments. These were included in the outline sent by NATaT to the subcommittee. We would like to briefly address them here.

One of the benefits which should come from block granting is a reduction in the administrative expenses, particularly as State agencies take over the functions now performed at the Federal level. I think this has been the cornerstone of the argument advanced by the administration. We are looking at it in a good-faith effort, and our assumption is it will work. But, however good the intentions are, an effective administration of State block grants are needed.

We believe, using the State community development block grant program as a guide, that Congress should set a strict percentage limit—perhaps 2 percent—on the amount of block granted Federal funds which can be used for State administrative costs. Such a provision would assure that most Federal funds would be passed through to localities and avoid any inadvertent expenses in administrative expenditures.

In conclusion, we would like to stress the need for all sizes of communities to be fairly represented in the national policymaking process. In this regard it is critical that the views of local officials from thousands of small towns across the country are included in all stages of the block grant process. I think this subcommittee, the full committee and Congress should encourage that to the fullest extent possible.

I think you have heard by and large the issues of major importance to township officials and small communities as far as block grants. I would feel remiss if I didn't take a moment—and I realize my time is coming to a close—to address a program of extreme significance to the membership of NATaT.

As you are well aware, NATaT has consistently supported the continuation and full funding of the general revenue sharing program. At our national conference held a few weeks ago, which you participated in, the association reaffirmed its strong support for the continuation of GRS. We believe the program is unique in terms of its efficiency. It is administered with a minimum of redtape and allows localities to solve locally determined needs, something I think that is a theme which is and should be inherent in block grants and other Federal initiatives as we move down the road.

Revenue sharing has also served to strengthen the intergovernmental system. It has enhanced the ability of towns as well as other localities to provide vital services in ways which are most appropriate to local conditions.

I might add that it is particularly unfortunate at this time that the administration has recommended a cut and possible termination of the general revenue sharing program. We think a termination would have a drastic effect on localities and the Nation as a whole.

Mr. Chairman, members of the subcommittee in your absence, again, on behalf of the board of directors of the National Association of Towns and Townships and its members, I would like to thank you for affording NATaT the opportunity to speak to this very important intergovernmental policy issue. We hope to work with you in the future as we develop block grant programs. Thank you again.

Senator DURENBERGER. Thank you very much.

George Gross, director of Federal Relations for the National League of Cities, will be our next witness.

Mr. GROSS. Thank you, Mr. Chairman.

As you know, NLC represents directly and indirectly about 15,000 cities, ranging in size from New York City to such small towns as Sun Valley, Idaho.

We want to thank you for this effort to develop boilerplate language to guide the development of future block grant programs. We believe in the block grant approach. We think many more programs could be consolidated, with gains both for local governments and for the Federal Government. We think there will be more consolidations. We obviously are concerned that they won't come with adequate resources, a movement we have already seen.

Nevertheless, if more block grants are enacted, there is a need for the kind of language that you are developing. That need was nowhere better demonstrated than by the enactment of the block grants through the reconciliation process. Not only did the final outcome not reflect the deliberations of the substantive committees of the Congress, most of the authorizing language was added on the Senate floor, something that I have certainly heard many Senators rail about. Moreover, title XVII of the reconciliation bill, relating to the block grants, hardly existed before the conference stage of that bill.

Everybody testifying before you today has participated in this drafting exercise. We commend you for the openness with which it was conducted.

Let me address four points that we at NLC are most concerned about.

One, we feel very strongly that every block grant bill should include consultation provisions requiring block grant recipients to consult with other governmental officials, organizations of every kind, and individual groups to be affected. Such provisions are essential to gaining general support for the proposed activities to be undertaken and to avoid the kind of duplication that is bound to result without that consultation.

Your bill does provide for this consultation, as well as for public disclosure of the plan for spending funds. What we envision for this process is a bottoms-up process where the consultation is done far in advance of the recipient's announcement of the plan for spending block grant funds. This procedure is clearly much better than those less meaningful ones where the consultation comes in only after the recipient has decided what it wants to do.

Our concern is a need for a limitation on how much the recipient may use for administration expenses. It is important that as much as possible of the Federal funding finds its way to the intended beneficiaries.

Section 109(b) of your draft places a 10-percent limit on how much can be used. We think that this section could be improved by defining in general terms what can be included in administrative expenses.

They might include the cost of planning, operating, evaluating, and conducting fiscal and substantive reviews, but, I would urge you not to go too far in this area. In many of the block grant areas, it is the substantive committees that really know best what is an administrative cost and what is really a program cost. You might develop some general language, with the understanding that the substantive committees might adopt it using their own unique knowledge of the program.

The third of our concerns is the section on audits.

As you know, we at NLC have been strong advocates of the single-audit concept. Although this auditing approach is now supposed to be Governmentwide policy, we have been very disappointed at the slow pace with which it is being implemented. Even so, the last thing we want to see is new programs authorized with new and additional audit requirements.

The audit provisions in title XVII are ambiguous as to whether they intend a single organizationwide audit to suffice or whether some differing audit is required in lieu of what might be covered in a single audit. The second failing of that title is that it does not address the case of the subrecipients of funds. Section 110 of your bill eliminates the ambiguity to make it clear you favor a single jurisdictionwide audit, but it doesn't reach as far as the subrecipients.

We urge you to further amend the bill to make it possible for subrecipients of funds, when they are units of government, to meet the audit requirements by using the single audit concept in the same way as the primary recipients are permitted to do. Local governments do not want the present Federal audit jumble of overlapping audits and nonstop teams of auditors trooping through local offices to simply be transferred from the Federal Government to State government recipients of block grant funds. Extending this privilege to subrecipient governments should not, of course, limit the ability of direct recipients to conduct audits where no single audit has been arranged for by the subrecipient or in those cases where the recipient has reason to suspect fraud or some other major violation.

We have submitted some suggestions to you in the areas of nondiscrimination and standard reporting procedures. Both have been incorporated in the bill and appear to be noncontroversial.

The final issue I want to mention is the matter of passthrough funds. All of the earlier drafts that you have circulated included a provision that required States, when they are block grant recipients, to make funds available to subrecipients when they had been beneficiaries of the funds under one or more of the consolidated programs. We understand that the States have opposed this provision, arguing that it limits their flexibility to plan the expenditure of funds. That argument is understandable. On the other hand, the intent of the provision was to assure that a prior recipient of Federal funding was not precipitously cut off when the program was turned into a block grant.

We want to offer a compromise on this point that we hope is acceptable. The language in section 109(b) of your September 22 draft should be reinserted with an amendment to make it clear that the passthrough requirements must be honored only in those cases where the subrecipient had previously received a multiyear commitment of some sort for Federal funding.

The Congress faced a similar problem in writing the Community Development Block Grant program in 1974. It did not seem right to have to continue funding a community that had received a one-time water and sewer grant, for example; nor did it seem fair, on the other hand, to cut off a community that had the expectation of receiving continuing or multiyear funding for Model Cities or urban renewal grant activities. Therefore, the Congress held harmless only those recipients who had received the multiyear funding and not the single-shot program funding.

We suggest the same type of approach in your bill, but without specifying how much of the funding has to be passed through. That again should really be a matter for the substantive committees of Congress to deal with.

This concludes our comments, but there are other minor points that we will be discussing with your staff. Thank you very much.

Senator **Durenberger**. Thank you. I take it that the important word in your last recommendation is "multiyear"?

Mr. **Gross**. Yes. Some activity that had a more than 1-year expectation of funding involved.

Senator **Durenberger**. We will now hear from John Gunther, executive director of the U.S. Conference of Mayors.

Mr. **Gunther**. Thank you. We appreciate the opportunity for the U.S. Conference of Mayors to offer additional comments on block grants. We particularly appreciate your efforts, Senator, to formulate across-the-board language which would apply to any future block grants which are enacted. I especially compliment you on the sincerity and openness of your efforts, and the way in which you have consulted with mayors and other organizations representing local governments in drafting language.

In most respects, the current draft of the block grant language circulated by your staff represents a significant improvement over the block grant legislation enacted so hastily as part of the reconciliation bill. I would, however, like to offer a few general and a few specific comments.

First, the Conference of Mayors is concerned that, when block grants are designed so as to flow through States, local governments be given several assurances. Specifically, we propose the following:

No. 1. A procedure to allow local governments above a certain size to become direct applicants for State block grant funds;

No. 2. Language requiring maintenance of effort on the part of the States;

No. 3. A requirement that States respond to the comments of local governments and involve local governments in the planning and allocation process; and

No. 4. A guarantee of continued funding for those local governments which received funds under one or more of the categorical programs consolidated into the block grants.

We consider it unfortunate that the last requirement has been dropped from your language. We favor the provision of an earlier draft, which read, "From funds provided under this act, each recipient which is also a State government, should make grants to each subrecipient within the State, where such subrecipient received funds under one or more assistance programs, the authorizations which were discontinued under this act."

At a minimum, there should be a requirement that States develop an equitable distribution formula which takes into consideration the level of funding local areas have received through the categoricals being consolidated.

In addition, we believe the earlier draft was stronger in requiring meaningful State consultation with local governments, since it required States to confer with "and to the extent practicable, reflect the recommendations of" local elected officials. In fact, we believe stronger language is warranted.

Finally, we are concerned about targeting. While I understand the reluctance to include specific targeting requirements, especially in language which is intended to be of general applicability to all block grants, it might be appropriate to insert a general statement of purpose to the effect that block grant funds are intended to be targeted to those most in need.

I would also like to compliment you, Senator, for the improvement in the audit requirements made by your block grant language. We believe, along with other State and local governments, that if a recipient of Federal funds performs a financial or compliance audit for any other purpose, then it should satisfy Federal program requirements generally. To the extent the Federal Government demands additional or more extensive audits, it should be willing to perform and pay for these audits. I believe your language moves us toward this necessary simplification and streamlining.

Again, Senator, we want to commend you on this effort to get common language. I would just want to say another word in supporting the point Mr. Gross made.

You have got to put the language in the bills. OMB is notorious for ignoring language in reports. We have had nothing but trouble with the language in the Community Development Block Grant on the multiyear funding for small jurisdictions. It would seem to us very clear that the intent of the Congress was that, in the smaller communities, these programs which require multiyear funding were to be funded by the States. But each time OMB bounces the ball back across town to HUD, that is out. We just think you are not going to get anyplace with OMB by writing report language. You have to put the club in the bill and hit them with it.

Thank you.

Senator **Durenberger.** Thank you.

Our last witness in this panel is Bernie Hillenbrand, executive director of the National Association of Counties.

Mr. **Hillenbrand.** Mr. Chairman, we have a very detailed statement which we would like to submit for the record and make some general comments.

Senator **Durenberger.** All the statements of the panelists will be made a part of the record in full.

Mr. **Hillenbrand.** We begin by congratulating you for your leadership in conducting this hearing which is important to us in local government, and to the Congress, itself. Thank you for the exhaustive consultation you have had with the NACo staff, particularly Linda Church-Ciocci.

In summary, Mr. Chairman, we wholeheartedly approve and support the draft we have before us and its components.

We have strongly supported block grants at the national level, including Partnership for Health, the Community Development program, CETA, and LEAA.

Mr. Chairman, I would like to speak to a matter mentioned earlier by Bart Russell. Our support of block grants has been contingent on receiving the resources to administer the block grants, in particular general revenue sharing. Because of recent actions, we are concerned that general revenue sharing does not meet the President's criteria for what a turnback should be, and that the program will be phased out. Again, our support of budget cuts and block grants under the economic revival plan has been contingent upon funding general revenue sharing. We believe the funds are distributed fairly and equitably. Moreover, the administrative cost of this program is one-half of 1 percent, far less than any other program. There are very, very few strings attached as opposed to other entitlement programs. We are presently arguing with OMB on whether GRS is an entitlement program. We believe it is. It was enacted multiyear, and it has given us some predictability, Mr. Chairman. Principally, general revenue sharing provides us with an opportunity for local decisionmaking.

In returning to the general concept of block grants, NACo has a set of principles which guide us. First, there should be a reasonable transition period to move from a categorical grant to a block grant. Second, no matching funds should be required of local governments. Third, there should be no maintenance of effort. Fourth, State and local government laws and procedures governing spending should apply. Fifth, local audit procedures should be used. Sixth, emphasis should be on saving taxpayers' money and not shifting the responsibility from one level of government to another. Seventh, there should be an absolute reduction in Federal mandates. We think this is more to be prayed for than to be expected. Finally, block grant allocations should use current formulas for distribution of the funds.

Mr. Chairman, NACo also takes the position that certain programs do not lend themselves to block grants. For example, Medicaid, AFDC, food stamps, and other very expensive social programs which we believe should be nationally financed. In addition, we are concerned, Mr. Chairman, about the present confusion and uncertainty in the whole block grant field, particularly with respect to funding. The 58 programs which were consolidated into 9 block grants were cut 25 percent, Mr. Chairman. Now, the President proposes an additional 12 percent cut. Our inflation rate has been at 10 percent. All this means a 47-percent cut in the purchasing power of these dollars. The State may need some of these funds for administrative expenses which could be as much as 10 percent. In summary, Mr. Chairman, these dollars could be cut as much as 57 percent in their total purchasing power. As a result, there could be a great reluctance on the part of our local communities to become involved in these block grants and to continue to provide the services they fund.

We have another uncertainty with respect to what the States are going to do. For example, California has decided, at least for the first quarter, not to participate.

Regarding the passthrough question, Mr. Chairman, we think we have a perfectly reasonable position and it is simply this: if local governments perform a service funded under the block grant, then funds should be transferred on an orderly basis to those local governments actually performing the function.

In conclusion, Mr. Chairman, we believe there is a very strong need for the legislation you are proposing today. We view this as an excellent start, and have offered some suggestions for strengthening it. Above all, Mr. Chairman, we would like to end by saying, as you indicated in your opening statement, there is a great need for passage of S. 807, "the Federal Assistance Reform Act of 1981."

Thank you, Mr. Chairman.

Senator **Durenberger**. Thank you, Bernie, and thanks to all of you. I particularly want to express my appreciation on behalf of the subcommittee and the staff for the compliments which were incorporated into your statements. It was at some risk to all of you that we set this hearing up today with the people who we thought could make the greatest contribution to the process. This means that those persons you are paid to represent are not here today. We are not reflecting on them in any way. But I hope, through this process, that we are able to share the sense of urgency that we know you feel—that I, at least, personally feel—to move as quickly as possible to some basic consensus on the issues. That is why we are using the unusual procedure of having the executive director types in here, rather than county commissioners, mayors, township supervisors, and city council members from all over the country.

I am going to submit to each of you a list of some specific questions that I think are necessary for the record to clarify your positions. These questions go beyond your statements. I will also ask you some general questions, and maybe a couple of specific ones.

The guaranteed passthrough is still one of our unresolved questions. The League of Cities has a compromise on the table about which you have heard. I would appreciate the reactions of the other three members of the panel to the League's proposal. Anyone can start.

Mr. **Hillenbrand**. We haven't had a chance to review the entire proposal, but we think Mr. Gross is moving in the right direction. Let us say that we have great sympathy with the problems the States are going to encounter in having to absorb these programs with such short notice. We are not anxious to open fresh quarrels with them, but the plain fact is there does have to be some element of certainty at the local level. What Mr. Gross has proposed is a good beginning. We can understand that the States would be reluctant to have the Federal Government really dictate how the money was to be distributed, but, on the other hand, we are the people who actually have to provide the service. We also need some assurances.

Senator **Durenberger**. John?

Mr. **Gunther**. Mr. Chairman, I think that George has touched on a very good precedent in the community development block grant field. None of us would argue hold harmless forever. We all know circumstances change. But certainly there has to be an orderly transition, and we could support that.

Senator **Durenberger**. Bart?

Mr. **Russell.** I think we also look to the CDBG program as a good corollary for designing a passthrough. We concur with Bernie and John, the county officials and mayors, that passthrough details have yet to be worked out.

Senator **Durenberger.** George, do you want to react or amplify at all?

Mr. **Gross.** No, except to say we can understand the State concern, but no multiyear commitment should continue forever. To the extent that States have to honor the current ones, which may last for 1 or 2 or 3 years, they are really in no worse position than before the block grant. So it doesn't restrict their current flexibility a bit. It is a temporary measure that takes two legitimate interests into account.

Senator **Durenberger.** Let me ask you a question, George, as long as you made the proposal. Again, the understanding here is that nobody is speaking for confirmed positions of associations. Part of the notion involved in your compromise is that we can all somehow feel the pressure which, at least, the Governors have been articulating about sorting out functions. If that pressure is real, and if it keeps up, we may be seeing—in 2, 3, or 4 years—some major changes in the responsibilities of various levels of government for delivering services. Therefore if you adopt my theory, this is the most practical way—in a transition sense—to compromise the issue of passthrough. Have I interpreted your proposal correctly?

Mr. **Gross.** I think that's right. To a certain extent, Senator, you are sort of proceeding on two levels, and so are the Governors. There is some sorting out process that is starting, but it is probably at an earlier stage in its consummation than this particular package of proposals. It is hard to solve the particular problem of a city which has been receiving money through the State with some broader notion of who should do what. The question is how are we going to fund this activity this year and next year when we were told that we would have 3 years worth of money. It is a practical problem that must be solved, not a philosophical one. It proved practical in the community development block grant program to phase down some communities and phase in others. I think it is a workable arrangement.

Senator **Durenberger.** Let me ask next about portability, which we will get from the State government representative. This is the right of recipients to move a percentage of funds to related programs. Would each of you comment on that kind of element of the block grant program?

Mr. **Gunther.** Mr. Chairman, I believe you will have a hard time asking Congress for funds and laws that do not have a national purpose. General revenue sharing had a national purpose which was to let up some of the pressure for increased property taxes. All the rest of them have a purpose as defined by the act. Having worked up here in the Senate many years ago, I don't believe I could have ever figured out a way to get something through with no purpose, and that bothers me. If we lose the purpose, how are we going to justify our requests in the future? I don't want to come up here and urge you and your colleagues to just vote money because you are good people. I think we have to have a national purpose. I think those purposes have to be pretty well spelled out. Now that doesn't mean that the national purpose has to be so narrowly defined that it becomes unworkable. I believe in areas such as housing we have defined national purposes pretty broadly. There is a great deal of local and State flexibility in the housing field now. The problem there, of course, is there is not much money. I think we have got to keep the national purpose in legislation or else we are not going to be able to continue it.

That really bothers me because the general revenue sharing cutback is really pretty scary to us. We have lost well over half of it because of inflation. Now to lose another eighth of what we had left because of the second round of budget cuts is pretty bad, particularly since we had a discussion in June 1980 with Governor Reagan about his intent "to decentralize the Federal Government to local governments relying on revenue sharing." The abandonment of that reliance is pretty bad.

Senator **Durenberger.** I would like to make a suggestion before the others reply. One national purpose clearly could be resource turnbacks using the block grants as a way to return resources to the States. There are those in the administration who suggest that is a legitimate national purpose.

Mr. **Gunther.** I would say that that could be. I think the sooner we get a clear answer from the administration, as to what they mean by "resource turnback," the better. In the meetings that I have attended it has been fairly clear to me that their idea is to cut the Federal income tax so the money remains in our cities, counties, and States. Then we can increase our taxes. The practicality of that approach escapes mayors from cities where the State limits them to the property tax only, or where we have severe limits on our ability to tax. I have not been involved in any discussions with anybody of responsibility in the administration about any other type of resource turnback, and we have been involved in a lot of discussions.

Senator **Durenberger.** Bart?

Mr. **Russell.** Mr. Chairman, at the risk of sounding a little rhetorical, I would like to reiterate what is an underlying principle of all the members of the National Association of Towns and Townships. That is, because local government is close to the people, it obviously has an ear to the ground and can observe what the problems are in a specific community better than any higher level of government. For example, in a rural community, most often the problems are those of the infrastructure—roads, sewer and water facilities, et cetera—which may not be necessarily applicable to some specific, narrow, national objective. Yet, there are legitimate economic and social needs, in these rural communities that without flexibility couldn't be addressed. So I think we would argue, as Bernie did earlier, that, to the fullest extent possible, there should be flexibility to recognize the unique character of small communities and the differences between communities in terms of size as well as regional variations.

Senator **Durenberger.** Bernie?

Mr. **Hillenbrand.** Mr. Chairman, it is important from a historical point of view to remember general revenue sharing was enacted when the first block grants were proposed under what was referred to as special revenue sharing. We cannot ask the Congress to give local governments huge sums of money without specific purposes. But special revenue sharing, or block grants as we now call them, can have national objectives. They can be directed to improve housing, to improve the infrastructure, or to respond to social problems as we have for example under title XX. They can have purposes that we can defend and are understandable by the Senate and House, and the public generally. But it is verv important at this critical moment, Mr. Chairman, that the people understand what pressures are now placed on city and county officials. The fiscal year for most cities and counties began on July 1 of this year. We are already 3 months into this fiscal year and are now faced with a proposal to not only cut general revenue sharing, but to phase it out completely.

This has been proposed by the man who administers the program, Mr. Chairman, and who is also the key player in any efforts by the administration to return revenue sources to local governments. We might very well find that we have been allowed to go into an expensive restaurant but discovered we have no money to pay the bill. We want the responsibility locally, and are more than willing to take it. However, Mr. Chairman, our only revenue source is the property tax, now limited by the whole taxpayers' revolt which started in California in 1978 with Proposition 13. We ask for more flexibility at the local level so, in administering the block grants, there is a recognition to direct the money where the actual problems are, where the services are provided.

Senator DURENBERGER. My question assumes that we will hear later an argument for flexibility at the State level, which permits them to move into related functions. Do I read in your comments that you really don't have much objection to giving the States that kind of flexibility?

Mr. HILLENBRAND. We certanly have none. We would like to help them get it, but we also want to be recognized as a part of the team. As your draft recognizes, there has to be a consultation process. It must be provided bv law.

Mr. GROSS. Mr. Chairman, I understand you to be discussing a proposal which would allow a State to take funds that it does not need in one block grant area, like social services, and transfer them to another block grant area, like health services.

Senator DURENBERGER. To a more related area.

Mr. GROSS. I think this is a particularly bad time to permit that. First, for the reasons which John has discussed, primarily that Congress has to know why it is providing money and for what purpose. But, second, we are in a period now where even the administration, I think, would not say there is plenty of money out there for social services and that some States don't need it. I don't think that can be maintained when social services funding is being cut from about $3.5 billion to $2.5 billion.

An analogous case is the EPA wastewater treatment program where some States are far behind in using their allocations. The answer is not to take that money and make it available for housing, as much as housing needs it, but to give it to those States where there are unmet wastewater treatment needs and they are ready to go ahead.

If Congress has made money available to the State of Minnesota for social services and the State says "we don't need half of that money," there is something basically wrong with the congressional formula of distributing funds that can't be fixed by giving them flexibility to use it somewhere else.

Senator **Durenberger**. Let me ask about the role of OMB circulars. One of our witnesses today will suggest that without rules on allowable costs, for instance, one gets exposed to audit Catch 22. Do any of you think some OMB circulars should be included as elements? If so, which ones?

Mr. **Gross**. Mr. Chairman, I can't answer that, but I will get you an answer for the record.

Senator **Durenberger**. Does everyone agree with that?

Mr. **Gunther**. Agree.

Senator **Durenberger**. My last question deals with an issue that arose a few weeks ago in the full committee. Our block grant language provides a specific exemption from the Federal Advisory Committee Act for the administration of block grants. Jim Sasser and I have worked on an amendment in this area on the regulatory reform bill. It may prove helpful, while we have you here today, to get some support for this exemption into the record so that Senator Sasser and I can use it in the future. I wonder if one, or more of you, would like to lay out the FACA problem and the importance of close consultation in structuring block grants.

Bernie, do you want to start with that?

Mr. **Hillenbrand**. Mr. Chairman, this is perhaps one of the best intended acts passed by the Congress, yet it has had a negative impact on our ability to consult with the Federal Government. The reality is that most Federal programs are partnerships where the Federal Government puts up some of the money, has some of the say-so, and works cooperatively with cities and with counties in accomplishing something at the local level. In so doing, consultation is essential.

Let me respond with a specific example. All four of us sitting at this table met with the Secretary of Energy and with our principals, that is with mayors and county officials and members of the State legislatures. We wanted to begin a dialog with the Department of Energy and they with us at the time when we were having a crisis about the distribution of fuel. We knew exactly what needed to be done. There was good will around the table. As we left the meeting, I remember the Secretary of Energy, at that time Mr. Schlesinger, waved his pipe and said, "Consider it done." Well, he came and went, as did two other Secretaries, and we still have not been able to sit around the table. That act stood in our way.

Mr. **Gunther**. Let me add to that, Mr. Chairman. We are known down in the administration as NGOs. That means nongovernmental organizations. We have a very difficult time explaining to county, city, township and State officials that they are not part of the Government. They think they are. When they take their oath, they pledge to uphold the Constitution of the United States as well as their State's and city's. We have been arguing this battle. I took this job in 1958, and it was argued 20 years before that. I think we really ought to be recognized as part of the Government and partners. This business of treating us as something other than part of the Government is just wrong.

Senator **Durenberger**. Any other comments?

Mr. **Gross.** I agree 100 percent.

Mr. **Russell.** I wonder how you see this playing out with respect to block grants. Are you concerned in terms of consultation and advisory activities that we would preclude that?

Senator **Durenberger.** That is why we wanted to incorporate it in this hearing record as a just-in-case or insurance policy, if you will. We are not sure where it will be most applicable, but we want to keep the principle out front on all of this legislation.

Let me thank all four of you for your presentation and preparation.

[The prepared statements of Messrs. Russell, Gross, Gunther, and Hillenbrand, with responses to written questions follow:]

**National
Association of
Towns and Townships**

TESTIMONY OF

BARTON D. RUSSELL
EXECUTIVE DIRECTOR

OF THE
NATIONAL ASSOCIATION OF TOWNS AND TOWNSHIPS

BEFORE THE

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

OF THE

SENATE GOVERNMENTAL AFFAIRS COMMITTEE

OCTOBER 6, 1981

1523 O Street, Northwest Washington, D.C. 20005 Telephone: (202) 462-0265

Mr. Chairman, Members of the Subcommittee, my name is Barton Russell, and I am Executive Director of the National Association of Towns and Townships (NATaT). NATaT, as you know, represents the interests of local officials from over 13,000 predominantly small communities across the country.

Before beginning my testimony, I would like to thank the Chairman for inviting NATaT to share its views with this Subcommittee as it drafts language for block grant legislation. We commend the Subcommittee for its work in this regard and hope that NATaT's recommendations will contribute to manageable and effective block grant programs for state and local governments. We are, of course, especially concerned with the special requirements of smaller localities in this regard, whose resources are limited but needs often extensive.

BLOCK GRANTS: A NEW ERA

The National Association of Towns and Townships believes that "blockgranting"as a concept represents a positive change from the present system of categorical grants. Most categorical grants involve complex program requirements and result in high "grantsmanship" costs -- both of which have meant that small towns have been effectively denied access to all but a relative handful of federal assistance programs. Consolidating and transferring federal programs to the states is an idea which presents smaller localities particularly a good opportunity -- for the first time -- to participate in programs which they have needed in the

PAST. STATES NOW HAVE THE CHANCE TO SERVE SMALL TOWNS IN A WAY THAT THE FEDERAL GOVERNMENT COULD NOT -- THEY ARE CLOSER TO THEM, AND CAN MORE EASILY KNOW THEIR SPECIAL LOCAL NEEDS. HOWEVER, THE CONGRESS, STATES AND TOWNS MUST WORK TOGETHER TO ASSURE THAT THIS POTENTIAL IS REALIZED.

NATAT'S RESEARCH HAS SHOWN THAT FEW STATES HAVE MADE EVEN CURSORY EFFORTS TO REACH OUT TO THE SMALLEST, NEEDIEST LOCALITIES. WE HAVE FOUND THAT NOT MANY STATE GOVERNMENTS KNOW THAT MUCH ABOUT THE SPECIAL NATURE AND CHARACTER OF LOCAL GOVERNMENTS IN SMALLER COMMUNITIES AND TO DATE HAVE UNDERTAKEN RELATIVELY FEW OUTREACH ASSISTANCE EFFORTS. IT IS FROM THIS PERSPECTIVE, AND FROM THE VANTAGE POINT OF OUR PREDOMINANTLY NONMETROPOLITAN MEMBERSHIP, THAT WE ADDRESS BLOCK GRANTS AS A SYSTEM OF FEDERAL AID.

EQUAL ACCESS, EQUAL ELIGIBILITY

IN ORDER TO ENSURE THAT THE PRESIDENT'S PROGRAM FOR ECONOMIC RECOVERY BECOMES INDEED A NATIONAL PROGRAM WHICH REACHES OUT TO THE GRASSROOTS AS WELL AS MORE URBAN INDUSTRIALIZED AREAS, ALL UNITS OF LOCAL GOVERNMENTS, REGARDLESS OF SIZE OR TYPE, SHOULD BE GUARANTEED ELIGIBILITY IN THE BLOCK GRANT PROGRAM; STATES SHOULD NOT BE ABLE TO PREVENT ANY LOCALITY FROM PARTICIPATION.

GUARANTEED ACCESS THROUGHOUT THE ENTIRE PROCESS FOR ALL LOCAL GOVERNMENTS IS CRITICAL TO THE SUCCESS OF THIS PROGRAM IN PARTICULAR AND OUR NATION'S ECONOMIC RECOVERY IN GENERAL. IN THIS REGARD, NATAT RECOMMENDS THAT STATE ADVISORY BODIES WITH REPRESENTATIVES

FROM SMALLER LOCALITIES BE CREATED TO WORK OUT THE DETAILS OF BLOCK GRANT PROGRAMS FROM THE VERY BEGINNING AS THE BLOCK GRANT PROGRAMS ARE DEVELOPED. IN ADDITION, NATaT HAS SEVERAL OTHER SUGGESTIONS:

o IF A PARTICULAR PROGRAM HAS BEEN USED EXTENSIVELY BY SMALLER COMMUNITIES, THERE SHOULD BE A "HOLD HARMLESS" PROVISION TO ENSURE THAT THEY WILL STILL BE ELIGIBLE TO PARTICIPATE AND THEY WILL GET A SHARE OF FUNDS THAT IS COMMENSURATE WITH THEIR PREVIOUS SHARE OF FUNDS. FOR EXAMPLE, IF A FEDERAL PROGRAM HAD A 30 PERCENT SET-ASIDE FOR COMMUNITIES UNDER 50,000 IN POPULATION, IT SHOULD BE CONTINUED WHEN TRANSFERRED TO THE STATES.

o SMALL COMMUNITY SET-ASIDES, AS PROVIDED FOR WITH THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM, SHOULD BE A PART OF ALL BLOCK GRANT FORMULAS. MANY SMALL LOCALITIES MAY NOT HAVE BEEN ABLE TO PARTICIPATE IN FEDERAL PROGRAMS DUE TO THEIR COMPLEXITIES AND THE NATURE OF FEDERAL REGULATIONS, EVEN THOUGH THEY WERE ELIGIBLE AND DEMONSTRATED NEED. A SET-ASIDE WOULD ENSURE THAT THE COMMUNITIES OUTSIDE OF THE HIGH DENSITY POPULATION AREAS -- THOUSANDS OF SMALL, PREDOMINANTLY NONMETROPOLITAN TOWNS -- HAVE AT LEAST THE OPPORTUNITY TO PURSUE THESE PROGRAMS AND OBTAIN A MINIMAL FAIR SHARE OF RESOURCES.

o BECAUSE OF LIMITED RESOURCES, MANY SMALLER TOWNS MAY HAVE DIFFICULTIES APPLYING FOR ASSISTANCE IN BLOCK GRANT PROGRAMS ON THEIR OWN. STATES SHOULD BE ENCOURAGED TO GIVE FAVORABLE CONSIDERATION TO VOLUNTARY MULTI-JURISDICTIONAL APPLICATIONS

WHICH INVOLVE INTERLOCAL AGREEMENTS AMONG A NUMBER OF SMALL COMMUNITIES.

- TECHNICAL ASSISTANCE IS VITAL IF SMALL COMMUNITIES ARE TO HAVE A ROLE IN BLOCK GRANTS. MOST SMALL TOWN OFFICIALS HAVE NO EXPERIENCE WITH FEDERAL PROGRAMS AT ALL. THEY NEED TO BE EDUCATED, AND INFORMED ABOUT HOW TO PARTICIPATE, OR WHY THEY SHOULD PARTICIPATE. THEY NEED TO LEARN HOW TO UNDERSTAND THE STATE BLOCK GRANT TERMS AND THE MECHANICS OF APPLYING AND TAKING PART IN THE PROGRAMS. STATES SHOULD BE REQUIRED TO HOLD BRIEFING SESSIONS WHICH PROVIDE LOCAL OFFICIALS WITH DETAILS OF THE NEW STATE PROGRAMS; MORE DETAILED WORKSHOP-STYLE INSTRUCTIONAL PROGRAMS SHOULD ALSO BE OFFERED.

BLOCK GRANTS: THE REMEDY FOR RED TAPE?

TOWNSHIPS AND OTHER SMALL COMMUNITIES OFTEN FACE SERIOUS BURDENS IN ATTEMPTING TO COPE WITH FEDERAL PROGRAMS AND REGULATORY REQUIREMENTS. FROM THE INORDINATELY HIGH EXPENSES OFTEN RELATED TO THE SUBMISSION OF GRANT AND LOAN APPLICATIONS TO THE COST OF COMPLEX AUDIT PROCEDURES, SMALL LOCAL GOVERNMENTS HAVE BEEN CONFRONTED WITH A HOST OF UNNECESSARILY DIFFICULT AND INFLEXIBLE PROCEDURES. BLOCK GRANT REQUIREMENTS SHOULD ELIMINATE UNNECESSARY REPORTS AND MINIMIZE AND SIMPLIFY FINANCIAL MANAGEMENT PROCEDURES. IN THIS REGARD, NATaT RECOMMENDS THAT:

- STATE GOVERNMENTS SHOULD BE ALLOWED BROAD LATITUDE IN ASCERTAINING IF LOCAL GOVERNMENTS ARE MEETING CERTIFIED FEDERAL STANDARDS. SPECIFIC AUDITS OR FORMS SHOULD NOT BE REQUIRED.

- IF ANY EVALUATIONS, AUDITS OR OTHER ASSURANCES OF COMPLIANCE BY THE FEDERAL GOVERNMENT ARE REQUIRED, STATES SHOULD BE GIVEN BROAD DISCRETIONARY POWER TO APPLY FEDERAL STANDARDS AND REQUIREMENTS IN WAYS WHICH MINIMIZE UNNECCESSARY BURDENS ON LOCAL GOVERNMENTS AND WHICH TAKE FULL ACCOUNT OF ALREADY EXISTING STATE AND FEDERAL REQUIREMENTS AND UNIQUE LOCAL CONDITIONS. STATES SHOULD BE ALLOWED TO CONCERN THEMSELVES WITH THE SUBSTANCE OF HONEST, EFFECTIVE, EFFICIENT USE OF FUNDS BY LOCAL GOVERNMENTS. DUPLICATION OF CUMBERSOME, EXCESSIVE FEDERAL REQUIREMENTS AT THE STATE LEVEL WOULD DEFEAT THE INTENT OF CONGRESS.
- PUBLIC HEARING REQUIREMENTS SHOULD NOT BE REQUIRED FOR SMALL JURISDICTIONS UNLESS FUNDING IS FORTHCOMING TO THE LOCALITY INVOLVED. THEY ARE DIFFICULT AND COSTLY FOR SMALLER JURISDICTIONS TO UNDERTAKE, AND, AS ALREADY STATED, SHOULD NOT BE MANDATED UNLESS THEY ARE PART AND PARCEL TO THE PROGRAM AND ITS FUNDING.

OVERSIGHT HEARINGS

MR. CHAIRMAN, WE RECOGNIZE THAT ONE OF THE GREAT ADVANTAGES BLOCKGRANTING OFFERS IS THE LESSENING OF THE HEAVY REGULATORY BURDEN WHICH HAS SO OFTEN ACCOMPANIED FEDERAL ASSISTANCE. HOWEVER, ANY NEW SYSTEM MUST HAVE A "SHAKEDOWN CRUISE" TO ASSURE EFFICIENT OPERATION, AND THE NEW STATE BLOCK GRANT PROGRAMS ARE NO EXCEPTION. AS THESE NEW PROGRAMS BEGIN TO TAKE SHAPE ACROSS THE COUNTRY, AN OBJECTIVE, SEARCHING EXAMINATION OF THE PROGRESS STATE GOVERNENTS ARE MAKING IN EQUITABLY IMPLEMENTING THIS CONGRESSIONAL MANDATE WOULD PROVIDE FEDERAL, STATE, AND LOCAL

GOVERNMENTS WITH A MUCH NEEDED OPPORTUNITY TO SUGGEST IMPROVEMENTS WHERE THEY ARE NECESSARY. NATaT IS, OF COURSE, PARTICULARLY CONCERNED WITH MAKING CERTAIN THAT SMALL COMMUNITIES ARE GIVEN FULL AND EQUAL ACCESS TO ALL NEW STATE BLOCK GRANT PROGRAMS. OVERSIGHT HEARINGS ON STATE BLOCK GRANTS WOULD PROVIDE CONGRESS WITH AN IDEAL OPPORTUNITY TO ASSIST IN THE CREATION OF EFFICIENT, EQUITABLE PROGRAMS WHICH SERVE SMALL COMMUNITIES AND OTHERS AS EFFECTIVELY AND ECONOMICALLY AS POSSIBLE.

MAKING BLOCK GRANTS WORK

THERE ARE JUST A COUPLE OF OTHER POINTS WHICH ARE GERMANE TO THE BLOCK GRANTING PROCESS THAT AFFECT ALL STATE AND LOCAL GOVERNMENTS, WHICH WERE INCLUDED IN THE OUTLINES WHICH NATaT SENT TO THE SUBCOMMITTEE, AND WHICH WE WOULD LIKE TO BRIEFLY ADDRESS HERE.

ADMINISTRATIVE COSTS

ONE OF THE BENEFITS WHICH SHOULD COME FROM BLOCKGRANTING IS A REDUCTION IN ADMINISTRATIVE EXPENDITURES, AS MORE EFFICIENT STATE AGENCIES TAKE OVER THE FUNCTIONS NOW PERFORMED BY THE FEDERAL BUREAUCRACY. HOWEVER, GOOD INTENTIONS ARE NOT ALWAYS REALIZED, AND ADDITIONAL INCENTIVES FOR EFFICIENT ADMINISTRATION OF STATE BLOCK GRANTS ARE NEEDED, GIVEN THAT THE ADMINISTRATION'S PLAN FOR THE NEW BLOCK GRANTS ASSUMES THAT INCREASED ADMINISTRATIVE EFFICIENCY WILL COMPENSATE FOR LOWER FUNDING LEVELS. USING THE NEW STATE COMMUNITY DEVELOPMENT BLOCK GRANT AS A GUIDE, NATaT SUGGESTS THAT A STRICT PERCENTAGE LIMIT -- PERHAPS TWO PERCENT -- BE SET ON THE AMOUNT OF BLOCKGRANTED FEDERAL FUNDS WHICH CAN BE

USED FOR STATE ADMINISTRATIVE COSTS. SUCH A PROVISION WOULD ASSURE THAT MOST OF THE FEDERAL FUNDS WOULD BE PASSED THROUGH TO LOCAL GOVERNMENTS, AND AVOID ANY INADVERTENT EXCESSES IN ADMINISTRATIVE EXPENDITURES.

Multi-Year Commitments

FINALLY, ANOTHER CONSIDERATION IN THE GENERAL BLOCKGRANTING SCHEME CONCERNS MULTI-YEAR COMMITMENTS THAT THE FEDERAL GOVERNMENT HAD MADE TO LOCAL GOVERNMENTS. LOCALITIES WHICH HAVE ENTERED INTO MULTI-YEAR AGREEMENTS CONCERNING THE HUD SMALL CITIES PROGRAM, FOR EXAMPLE, WILL HAVE MADE PLANS AND BUDGETED FOR THE FUNDS. IF, AS THE STATE TAKES ON THE PROGRAM, THEY CAN NO LONGER RELY ON A CONTINUATION OF THE MULTI-YEAR COMMITMENT, THEIR BUDGETS WOULD BE DRASTICALLY AFFECTED.

CONCLUSION

AS STATED PREVIOUSLY, NATaT WOULD LIKE TO STRESS THE NEED FOR ALL SIZES OF COMMUNITIES TO BE FAIRLY REPRESENTED IN THE NATIONAL POLICY-MAKING PROCESS. IT IS CRITICAL THAT THE VIEWS OF LOCAL OFFICIALS FROM THE THOUSANDS OF SMALL TOWNS THROUGHOUT THE COUNTRY ARE INCLUDED IN ALL STAGES OF THE BLOCK GRANT PROCESS. THEY CANNOT AFFORD TO BE LEFT OUT; THE COUNTRY CANNOT AFFORD TO EXCLUDE THEM.

SMALL TOWNS HAVE A VITAL STAKE IN THE INTERGOVERNMENTAL SYSTEM AND IN THE ADMINISTRATION'S PROGRAM FOR ECONOMIC RECOVERY. AS THE STATES TAKE ON THE ADMINISTRATION OF FEDERAL PROGRAMS IN THE FORM OF BLOCK GRANTS, IT IS LOCAL OFFICIALS FROM ALL COMMUNITIES --

FROM THE MOST RURAL AREAS IN MINNESOTA TO NEW YORK CITY -- WHO HAVE THE MOST IMPORTANT CONTRIBUTIONS TO MAKE. WE HAVE A UNIQUE OPPORTUNITY TO AVOID PAST MISTAKES AND CREATE A NEW SYSTEM WHICH IS TRULY RESPONSIVE TO THE NEEDS AND CAPACITIES OF LOCAL GOVERNMENTS. TO DO SO, HOWEVER, WE MUST PAY HEED TO THE VIEWS OF LOCAL OFFICIALS -- THOSE WHO MUST WORK WITH WHATEVER "TOOLS" CONGRESS GIVES THEM. PROPERLY DESIGNED AND IMPLEMENTED, STATE BLOCK GRANTS WILL PROVIDE LOCAL GOVERNMENTS WITH THE FLEXIBILITY AND FREEDOM FROM BURDENSOME REGULATION WHICH THEY HAVE NEEDED FOR MANY YEARS.

THOUGH WE HAVE NOT SPECIFICALLY ADDRESSED ALL OF THE SECTIONS OF THE DRAFT LEGISLATION HERE, WE HAVE EMPHASIZED THE ELEMENTS OF BLOCK GRANTS THAT CONCERN OUR MEMBERSHIP, WHICH INCLUDE SOME ADDITIONAL RECOMMENDATIONS FOR THE LEGISLATION.

I WOULD FEEL REMISS, MR. CHAIRMAN, IF I DIDN'T TAKE JUST A MOMENT TO COMMENT ON A PROGRAM WHICH IS OF EXTREME SIGNIFICANCE TO THE MEMBERSHIP OF THE NATIONAL ASSOCIATION.

GENERAL REVENUE SHARING: A MODEL FOR BLOCK GRANTS

AS YOU ARE WELL AWARE, MR. CHAIRMAN, NATaT HAS CONSISTENTLY SUPPORTED THE CONTINUATION OF THE GENERAL REVENUE SHARING (GRS) PROGRAM. AT NATaT'S NATIONAL CONFERENCE HELD A FEW WEEKS AGO IN WASHINGTON, D.C., THE ASSOCIATION REAFFIRMED ITS STRONG SUPPORT FOR THE CONTINUATION OF GRS. GRS IS A UNIQUE, FEDERAL PROGRAM, ADMINISTERED WITH A MINIMUM OF RED TAPE THAT ALLOWS LOCAL GOVERNMENTS TO SOLVE LOCALLY-DETERMINED NEEDS.

THE GRS PROGRAM HAS SERVED TO STRENGTHEN OUR INTERGOVERNMENTAL SYSTEM. IT HAS ENHANCED THE ABILITIES OF TOWNS, AS WELL AS OTHER LOCAL GOVERNMENTS, TO PROVIDE VITAL SERVICES IN WAYS WHICH ARE MOST APPROPRIATE TO LOCAL CONDITIONS. ITS ADMINISTRATIVE COSTS ARE NEGLIGIBLE; ITS EFFECTIVENESS GREAT. IT IS AN EXAMPLE OF A FEDERAL PROGRAM WHICH OFFERS THE FLEXIBILITY NEEDED TO ALLOW TOWNS AND OTHER LOCALITIES THROUGHOUT THE COUNTRY TO MEET THE SPECIFIC NEEDS OF THEIR CITIZENS WITHOUT BEING ENCUMBERED BY RED TAPE AND REGULATIONS. GRS COULD VERY WELL SERVE AS A MODEL FOR BLOCK GRANTS IN TERMS OF ITS ADMINISTRATIVE CHARACTER.

I MIGHT ADD THAT IT IS UNFORTUNATE THAT AT THIS TIME THE ADMINISTRATION HAS RECOMMENDED CUTTING AND POSSIBLY PHASING OUT GENERAL REVENUE SHARING. REDUCTIONS IN FUNDING FOR THE GENERAL REVENUE SHARING PROGRAM, OR TERMINATING IT, WOULD HAVE A DRASTIC EFFECT ON LOCAL GOVERNMENTS AND THE NATION AS A WHOLE.

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, ON BEHALF OF THE BOARD OF DIRECTORS OF THE NATIONAL ASSOCIATION OF TOWNS AND TOWNSHIPS AND ITS MEMBERS, I WOULD LIKE TO THANK YOU FOR AFFORDING NATaT THE OPPORTUNITY TO SPEAK TO SOME VERY IMPORTANT INTERGOVERNMENTAL POLICY ISSUES AS THEY PERTAIN TO BLOCK GRANTS AND THE INTERESTS OF NATaT'S MEMBERS.

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Statement of
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Director of Federal Relations
National League of Cities

on

Standard Legislative Language for Block Grants

before the
Subcommittee on Intergovernmental Relations
Committee on Government Affairs
United States Senate

October 6, 1981

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Mr. Chairman and Members of the Committee, I am George Gross, Director of Federal Realtions for the National League of Cities. As you know, NLC represents about 15,000 cities across the country, directly and through membership in state municipal leagues. Our direct member cities range in size from New York City to Sun Valley, Idaho.

We want to commend you for undertaking this effort to develop "boiler plate" language that will guide the development of all future block grant programs. NLC believes in the block grant approach of consolidating similar categorical programs. Experience with such block grants as the community development block grant program shows their value in providing local flexibility to meet national objectives. They also aid in planning comprehensive local solutions to problems and in streamlining the cumbersome and often inefficient federal grant system.

The prospects for further block grant consolidations would appear bright. However, we hasten to add that the federal budget outlook for 1984 and beyond is bleak with respect to federal assistance for state and local governments.

Nevertheless, should more block grants be enacted by Congress, there will be need for the legislative language you expect to report from this Committee. That need was amply demonstrated by the most recent exercise that resulted in the enactment of eight block grants, plus a restructuring of one existing block grant, through the budget reconciliation process. Not only did the final programs not reflect the deliberations of standing committees of Congress, but most of

THE AUTHORIZING LANGUAGE WAS ADDED AT THE FLOOR LEVEL. MOREOVER, TITLE XVII OF THE OMNIBUS BUDGET RECONCILIATION ACT RELATING TO BLOCK GRANTS DID NOT EXIST PRIOR TO ITS HASTY DRAFTING AT THE CONFERENCE COMMITTEE STAGE.

MANY MISTAKES WERE MADE WHICH NEED NOT BE REPEATED IN THE FUTURE FOR ADDITIONAL BLOCK GRANTS IF THE PROVISIONS OF YOUR BOILERPLATE BILL ARE EMPLOYED THROUGH A MORE CAREFUL COMMITTEE DEVELOPMENT PROCESS.

ALL OF THE GROUPS THAT ARE TESTIFYING BEFORE YOU TODAY CONTRIBUTED TO THE DRAFTING OF THIS BILL IN WHAT, I MUST SAY, HAS BEEN ONE OF THE MOST THOROUGH AND OPEN BILL DRAFTING EXERCISES IN RECENT CONGRESSIONAL HISTORY. WE GREATLY APPRECIATED THE EXTENT TO WHICH YOU AND YOUR STAFF WENT TO SOLICIT OUR INPUT.

LET ME NOW ADDRESS THOSE PARTS OF THE BILL WHICH NLC FEELS MOST STRONGLY ABOUT.

WE FEEL STRONGLY THAT EVERY BLOCK GRANT BILL SHOULD INCLUDE CONSULTATION PROVISIONS REQUIRING RECIPIENT GOVERNMENTS TO CONSULT WITH OTHER GOVERNMENT OFFICIALS, ORGANIZATIONS REPRESENTING GOVERNMENT OFFICIALS, AND OTHER INDIVIDUALS AND GROUPS AFFECTED BY THE PROGRAM. SUCH PROVISIONS ARE ESSENTIAL TO GAINING GENERAL SUPPORT FOR THE PROPOSED ACTIVITIES TO BE UNDERTAKEN AND TO AVOID DUPLICATION WITH SIMILAR ACTIVITIES BEING CARRIED ON BY OTHERS.

SECTION 103 OF YOUR BILL DOES PROVIDE FOR THIS CONSULTATION PROCESS AS WELL AS PUBLIC DISCLOSURE OF THE PLAN FOR SPENDING FUNDS AND PUBLIC HEARINGS. WHAT WE ENVISION FOR THIS PROCESS IS A "BOTTOMS-UP" PROCESS WHEREIN THE CONSULTATION IS

DONE FAR IN ADVANCE OF THE RECIPIENT'S ANNOUNCEMENT OF THE PLAN FOR SPENDING BLOCK GRANT PROGRAMS. THIS PROCEDURE IS CONTRASTED WITH THOSE LESS MEANINGFUL WHERE THE CONSULTATION OCCURS ONLY AFTER THE RECIPIENT HAS DECIDED HOW IT THINKS THE FUNDS OUGHT TO BE SPENT.

OUR SECOND CONCERN IS THE NEED FOR A LIMITATION ON HOW MUCH IN FEDERAL FUNDS THE RECIPIENT CAN USE FOR ADMINISTRATIVE EXPENSES. IT IS IMPORTANT THAT AS MUCH AS POSSIBLE OF THE FEDERAL FUNDING FIND ITS WAY TO THE INTENDED BENEFICIARIES.

SECTION 109(B) PLACES A LIMIT OF 10 PERCENT ON HOW MUCH CAN BE USED FOR ADMINISTRATIVE EXPENSES. WE THINK THAT THIS SECTION COULD BE IMPROVED BY DEFINING IN GENERAL TERMS WHAT CAN BE INCLUDED IN THOSE ADMINISTRATIVE EXPENSES. AS A SUGGESTION, ADMINISTRATIVE EXPENSES SHOULD INCLUDE THE COSTS OF PLANNING, OPERATING, EVALUATING, AND CONDUCTING FISCAL AND SUBSTANTIVE REVIEWS OF THE ACTIVITIES SUPPORTED BY THE BLOCK GRANT FUNDS.

THE THIRD OF OUR CONCERNS IS THE SECTION ON AUDITS. AS YOU KNOW, NLC IN RECENT YEARS HAS BEEN A STRONG ADVOCATE OF THE SINGLE AUDIT CONCEPT. ALTHOUGH THIS AUDITING APPROACH IS NOW SUPPOSED TO BE GOVERNMENT-WIDE POLICY AND PRACTICE, WE HAVE BEEN DISAPPOINTED AT THE SLOW PACE WITH WHICH IT IS BEING IMPLEMENTED. EVEN SO, THE LAST THING WE WOULD WANT TO SEE IS NEW PROGRAMS AUTHORIZED WITH ADDITIONAL AUDIT REQUIREMENTS.

THE AUDIT PROVISION CONTAINED IN TITLE XVII OF THE BUDGET RECONCILIATION ACT IS AMBIGUOUS AS TO WHETHER IT INTENDS THE SINGLE ORGANIZATION-WIDE AUDIT TO SUFFICE FOR THE AUDIT REQUIREMENT OR WHETHER A DIFFERENT AUDIT IS REQUIRED IN LIEU

OF WHAT MIGHT BE COVERED IN A SINGLE AUDIT. THE SECOND FAILING OF THIS SECTION IN THE ACT IS THAT IT DOES NOT ADDRESS THE CASE OF THE SUBRECIPIENTS OF FUNDS.

SECTION 110 OF YOUR BILL DOES ELIMINATE THE AMBIGUITY TO MAKE IT CLEAR THAT A SINGLE AUDIT WILL BE ACCEPTED AS FULFILLMENT OF THE AUDIT REQUIREMENT. HOWEVER, THIS LANGUAGE DOES NOT NOW COVER SUBRECIPIENTS OF FUNDS AS IT DID LAST WEEK WHEN WE WERE REVIEWING THE DRAFT.

WE URGE YOU TO AMEND YOUR BILL TO MAKE IT POSSIBLE FOR SUBRECIPIENTS OF FUNDS, WHEN THEY ARE GOVERNMENTS, TO MEET THE AUDIT REQUIREMENT BY USING THE SINGLE AUDIT CONCEPT IN THE SAME WAY RECIPIENTS ARE PERMITTED TO DO. LOCAL GOVERNMENTS DO NOT WANT THE PRESENT FEDERAL AUDITING JUMBLE OF OVERLAPPING AUDITS AND NON-STOP TEAMS OF AUDITORS TROOPING THROUGH LOCAL OFFICES TO SIMPLY BE TRANSFERRED FROM THE FEDERAL GOVERNMENT TO THE STATE GOVERNMENTS WHEN THE STATES ARE MADE RECIPIENTS OF BLOCK GRANTS. EXTENDING THIS PRIVILEGE TO SUBRECIPIENT GOVERNMENTS SHOULD NOT, OF COURSE, LIMIT THE ABILITY OF DIRECT RECIPIENTS TO CONDUCT AUDITS WHERE NO SINGLE AUDIT HAS BEEN ARRANGED FOR BY THE SUBRECIPIENT OR IN THOSE CASES WHERE THE RECIPIENT HAS REASON TO SUSPECT FRAUD OR OTHER VIOLATIONS OF LAWS.

WE HAVE SUBMITTED OTHER SUGGESTIONS TO YOU FOR THIS BILL IN THE AREAS OF NONDISCRIMINATION AND STANDARD REPORTING PROCEDURES BOTH OF WHICH HAVE BEEN ADDRESSED IN THE BILL AND APPEAR TO BE NONCONTROVERSIAL.

THE FINAL ISSUE I WANT TO MENTION HERE IS THE MATTER OF PASS-THROUGH FUNDS. ALL OF THE EARLIER DRAFTS OF THIS LEGIS-

LATION INCLUDED A PROVISION THAT REQUIRED STATES, WHEN THEY ARE RECIPIENTS OF FUNDS, TO MAKE FUNDS AVAILABLE TO SUB-RECIPIENTS WHEN THEY HAD BEEN BENEFICIARIES OF FUNDS UNDER ONE OR MORE ASSISTANCE PROGRAMS ELIMINATED BY THE BLOCK GRANTS. WE UNDERSTAND THAT THE REPRESENTATIVES OF STATE GOVERNMENTS HAVE OPPOSED THAT PROVISION ARGUING THAT IT LIMITS THEIR FLEXIBILITY TO PLAN THE EXPENDITURE OF FUNDS. THAT ARGUMENT IS QUITE UNDERSTANDABLE TO US. ON THE OTHER HAND, THE INTENT OF THIS PROVISION WAS TO ASSURE THAT A PRIOR RECIPIENT OF FEDERAL FUNDING WAS NOT PRECIPITIOUSLY CUT OFF WHEN THE PROGRAMS ARE TURNED INTO BLOCK GRANTS.

WE WANT TO OFFER A COMPROMISE THAT WE HOPE WILL BE ACCEPTABLE TO ALL. THE LANGUAGE IN SECTION 109(B) OF THE SEPTEMBER 22 DRAFT COULD BE REINSERTED IN THE BILL BUT AMENDED TO MAKE IT CLEAR THAT THE PASS-THROUGH REQUIREMENT HAD TO BE HONORED ONLY IN THOSE CASES WHERE THE SUBRECIPIENT HAD PREVIOUSLY RECEIVED A MULTI-YEAR COMMITMENT FOR FEDERAL FUNDING.

WE FACED A SIMILAR PROBLEM WHEN WE WERE WRITING THE HOLD HARMLESS PROVISION FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM IN 1974. IT DID NOT SEEM RIGHT TO HAVE TO CONTINUE FUNDING A COMMUNITY THAT HAD RECEIVED A ONE-TIME SEWER GRANT NOR DID IT SEEM FAIR TO CUT OFF A COMMUNITY THAT HAD THE EXPECTATION OF RECEIVING FUTURE YEAR'S GRANTS UNDER MODEL CITIES. THEREFORE, WE HELD HARMLESS ONLY THE TWO PROGRAMS OF A CONTINUING NATURE AND NOT THE OTHER FOUR.

WE ARE SUGGESTING THE SAME TYPE OF APPROACH IN YOUR BILL BUT LEAVING UNSPECIFIED HOW MUCH OF THE FUNDING HAS TO BE

PASSED THROUGH.

THIS CONCLUDES MY FORMAL COMMENTS, BUT THERE ARE OTHER MINOR POINTS ABOUT THE BILL THAT WE WILL RAISE INFORMALLY WITH YOUR STAFF. AGAIN, WE THANK YOU FOR INVOLVING US SO CLOSELY IN THE DEVELOPMENT OF THIS BILL, AND WE APPRECIATE YOUR INTEREST IN SMOOTHING THE TRANSITION TO FUTURE BLOCK GRANTS.

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TESTIMONY OF JOHN J. GUNTHER
Executive Director
UNITED STATES CONFERENCE OF MAYORS

on

BLOCK GRANT LANGUAGE

INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE

GOVERNMENTAL AFFAIRS COMMITTEE

U.S. SENATE

October 6, 1981

Mr. Chairman, and Members of the Subcommittee, thank you for this opportunity for the U.S. Conference of Mayors to offer additional comments on block grants. We appreciate your efforts, Senator Durenberger, to formulate across-the-board "boilerplate" language which would apply to any future block grants which are enacted. I especially compliment you on the sincerity and the openness of your efforts, and the way in which you have consulted with Mayors and organizations representing local government in drafting language.

In most respects, the current draft of block grant language circulated by your staff represents a significant improvement over the block grant legislation enacted so hastily as part of the reconciliation bill. However, I would like to offer a few general and a few specific comments.

First, the Conference of Mayors is concerned that when block grants are designed so as to flow through states, local governments be given several assurances. Specifically, we propose the following:

(1) A procedure to allow local governments above a certain size to become direct applicants for state block grant funds;

(2) Language requiring maintenance of effort on the part of the states;

(3) A requirement that states respond to the comments of local governments and involve local governments in the planning and allocation process; and

(4) A guarantee of continued funding for those local governments which receive funds under one or more of the categorical programs consolidated into the block grants.

We consider it unfortunate that the last requirement has been dropped from your language. We favor the provision of an earlier draft, which read,

"From funds provided under this Act, each recipient which is also a state government, should make grants to each subrecipient within the state, where such subrecipient received funds under one or more assistance programs, the authorizations which were discontinued under this Act."

At a minimum, there should be a requirement that states develop an equitable distribution formula which takes into consideration the level of funding local areas have received through the categoricals being consolidated.

In addition, we believe the earlier draft was stronger in requiring meaningful state consultation with local government officials, since it required states to confer with "and to the extent practicable, reflect the recommendations of" local elected officials. In fact, we believe stronger language is warranted.

Finally, we are concerned about targeting. While I understand your reluctance to include specific targeting requirements, especially in language which is intended to be of general applicability to all block grants, it might be appropriate to insert a general statement of purpose to the effect that block grant funds are intended to be targeted to those most in need.

I would also like to compliment you, Senator Durenberger, for the improvement in audit requirements made by your block grant language. We believe, along with other state and local governments, that if a recipient of federal funds performs a financial or compliance audit for any other purpose, then it should satisfy federal program requirements generally. To the extent the federal government demands additional or more extensive audits, it should be willing to perform and pay for these audits. I believe your language moves us toward this necessary simplification and streamlining of audit requirements.

Again, Mr. Chairman, let me commend you for your efforts to formulate across-the-board, workable language for block grant programs. The Conference of Mayors has long favored the block grant mechanism as a way to distribute federal funds to cities. Yet, at the same time, we recognize the interests of the federal government in establishing some general standards and procedures for block grant funds and the need to impose a few restrictions on state block grants, to ensure that the funds are used in a manner that meets local needs and objectives.

Thank you for this opportunity to testify on this important initiative.

We look forward to working with you to ensure that the Congress adopts reasonable and workable requirements and standards for any future block grant programs.

Statement by:

National Association of Counties

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STATEMENT OF

BERNARD F. HILLENBRAND, EXECUTIVE DIRECTOR
NATIONAL ASSOCIATION OF COUNTIES

ON BEHALF OF
THE NATIONAL ASSOCIATION OF COUNTIES

BEFORE THE
SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
OCTOBER 6, 1981
WASHINGTON, D. C.

STATEMENT OF BERNARD F. HILLENBRAND, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF COUNTIES, ON BEHALF OF THE NATIONAL ASSOCIATION OF COUNTIES, BEFORE THE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS, COMMITTEE ON GOVERNMENTAL AFFAIRS, UNITED STATES SENATE, OCTOBER 6, 1981, WASHINGTON, D.C.

CHAIRMAN DURENBERGER, AND DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS, I AM BERNARD F. HILLENBRAND, EXECUTIVE DIRECTOR OF THE NATIONAL ASSOCIATION OF COUNTIES,* (NACO) WHICH IS THE ONLY ORGANIZATION REPRESENTING THE 3,105 COUNTY-TYPE GOVERNMENTS IN THE UNITED STATES. I APPEAR BEFORE YOU THIS MORNING TO PRESENT OUR ELECTED COUNTY OFFICIALS' VIEWS ON AN IMPORTANT TOPIC WHICH CONCERNS US ALL -- BLOCK GRANTS. LET ME MAKE CLEAR FROM THE START THAT WE IN COUNTY GOVERNMENT STRONGLY EMBRACE THE BLOCK GRANT CONCEPT. FOR MORE THAN A DECADE WE HAVE SUPPORTED, ENCOURAGED AND WORKED TOWARD REDUCTION OF CATEGORICAL PROGRAMS THROUGH WIDER USE OF THE BLOCK GRANT MECHANISM AND GENERAL REVENUE SHARING. WE APPLAUD THE FLEXIBILITY THAT BOTH BLOCK GRANTS AND REVENUE SHARING PROVIDES. MOST ASSURINGLY, WITH BLOCK GRANTS AND GENERAL REVENUE SHARING AS THE BASIC BUILDING BLOCKS FOR ANY "NEW FEDERALISM," THERE IS MUCH WE CAN MUTUALLY ACCOMPLISH TO GET THE ECONOMY, AND THIS COUNTRY BACK ON ITS FEET AGAIN.

NEED FOR BOILER PLATE LANGUAGE

MR. CHAIRMAN, COMING FROM A TWENTY-THREE YEAR PERSPECTIVE AS EXECUTIVE DIRECTOR OF OUR COUNTY ORGANIZATION, I CAN TELL YOU QUITE FRANKLY THAT I HAVE NEVER WITNESSED MORE CONFUSION IN THE FORMATION OF PUBLIC POLICY AS IN THIS RECENT GO-ROUND ON BLOCK GRANTS. BOTH IN THE PLANNING AND CONSIDERATION PRO-

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* THE NATIONAL ASSOCIATION OF COUNTIES IS THE ONLY NATIONAL ORGANIZATION REPRESENTING COUNTY GOVERNMENT IN THE UNITED STATES. THROUGH ITS MEMBERSHIP, URBAN, SUBURBAN AND RURAL COUNTIES JOIN TOGETHER TO BUILD EFFECTIVE, RESPONSIVE COUNTY GOVERNMENTS. THE GOALS OF THE ORGANIZATION ARE: TO IMPROVE COUNTY GOVERNMENT; TO SERVE AS THE NATIONAL SPOKESMAN FOR COUNTY GOVERNMENTS; TO ACT AS A LIAISON BETWEEN THE NATION'S COUNTIES AND OTHER LEVELS OF GOVERNMENT; AND TO ACHIEVE PUBLIC UNDERSTANDING OF THE ROLE OF COUNTIES IN THE FEDERAL SYSTEM.

CESS, NEITHER STATE NOR LOCAL ELECTED OFFICIALS WERE CONSULTED IN AN OPEN FORUM. AS THE ULTIMATE PROVIDERS IN SERVING OUR CITIZENS, STATE AND LOCAL GOVERNMENT OFFICIALS HAVE MUCH TO OFFER REGARDING SIGNIFICANT ADMINISTRATIVE ISSUES--ISSUES SUCH AS REPORTING REQUIREMENTS, AUDITING PROCEDURES AND THE LIKE. CONSEQUENTLY, THE BLOCK GRANTS, WHICH ARE BEING IMPLEMENTED THIS WEEK, LACK CONSISTENCY, AND MAY CAUSE IMMENSE ADMINISTRATIVE CONFUSION WHICH COULD HAUNT US ALL FOR SOMETIME TO COME. SUCH CONFUSION SERVES ONLY TO REDUCE THE MARGIN OF ADMINISTRATIVE SAVINGS AND DEFEATS THE PURPOSE OF BOTH THE CONGRESS' AND THE ADMINISTRATION'S BUDGET EFFORTS IN THIS REGARD.

NACO HAS LOBBIED HARD, SENATORS, TO SECURE ADOPTION OF SPECIFIC CRITERIA WHICH WE BELIEVED WOULD ENSURE A SMOOTH AND SUCCESSFUL TRANSITION FROM CATEGORICAL TO BLOCK GRANTS. WE ASKED FOR UNIFORM CRITERIA AND PROCESSES AMONG BLOCK GRANTS, BUT DID NOT RECEIVE THEM. WE DID, HOWEVER, RECEIVE RESTRICTIVE PROVISIONS, LIKE SPECIFIC MAINTENANCE OF EFFORT REQUIREMENTS, AND MATCHING FORMULAS, WHICH SEVERELY LIMITS THE FLEXIBILITY WE HAD SOUGHT -- THE FLEXIBILITY WHICH MAKES THE BLOCK GRANT MECHANISM WORK. THIS FLEXIBILITY, AND A GUARANTEED PASS-THROUGH OF FUNDS TO LOCAL GOVERNMENTS, ARE THE ONLY SAFETY VALVES WHICH PERMIT US, IN COUNTY GOVERNMENT, TO PROVIDE ESSENTIAL SERVICES, PARTICULARLY IN LIEU OF NEW BUDGET RESTRAINTS AND RISING INFLATION.

IT IS FOR THIS REASON THAT WE APPLAUD YOUR EFFORTS, MR. CHAIRMAN, TO DEVELOP "BOILER PLATE," LANGUAGE. I ASSURE YOU THAT COUNTY GOVERNMENT STANDS READY TO SUPPORT AND STAY ACTIVELY INVOLVED IN THIS EFFORT.

SENATORS, PERMIT ME TO SPEND A FEW MOMENTS REVIEWING THE PRESENT PROBLEM WE FACE. FIRST, THERE IS NO STANDARD DEFINITION OF WHAT CONSTITUTES A BLOCK GRANT. CONSEQUENTLY, SOME ARE SIMPLY A SLIGHT RESTRUCTURING WITH THE FEDERAL DOLLAR GOING ONLY TO THE STATE, WHILE OTHERS ACTUALLY CONSOLIDATE A NUMBER OF PROGRAMS. MORE SPECIFICALLY, INCONSISTENT APPLICATION OF PASS-THROUGH REQUIREMENTS, ADMINISTRATIVE COST CEILINGS, PERCENTAGE OF FUNDS TRANSFERABLE

AMONG PROGRAM AREAS, MATCHING REQUIREMENTS AND THE LIKE, RAISE IMPORTANT MANAGEMENT CONCERNS. FOR EXAMPLE, THE SOCIAL SERVICES BLOCK GRANT CONSOLIDATED THREE PROGRAM AREAS, CONTAINS NO ADMINISTRATIVE COST CAP, ALLOWS A 10% TRANSFER OF FUNDS AMONG AREAS, AND HAS NO MATCHING REQUIREMENT. ON THE OTHER HAND, THE HEALTH BLOCK GRANT REQUIRES MATCHING FUNDS, PROHIBITS TRANSFER OF FUNDS, AND IMPOSES LIMITATIONS ON FUNDS' USE FOR ADMINISTRATION.

YET THE COMMUNITY DEVELOPMENT BLOCK GRANT REMAINS SIMILAR AS BEFORE WITH THE ADDITION OF THE "SMALL CITIES" PROGRAM AND THE ELIMINATION OF THE 312, 701 AND NEIGHBORHOOD SELF HELP AND ENERGY WEATHERIZATION PROGRAMS. SHOULD THE STATES ACCEPT THE OPTION TO ADMINISTER THE "SMALL CITIES" PORTION, THEY WOULD BE LIMITED TO A 2% ADMINISTRATIVE COST CAP, AND WILL BE REQUIRED TO PROVIDE A 10 PERCENT MATCH. LOCAL GOVERNMENTS, OF COURSE, ARE PROTECTED WITH A MANDATORY CLAUSE FOR LOCAL GOVERNMENT CONSULTATION. COMMUNITY DEVELOPMENT LANGUAGE WAS THE ONLY BLOCK GRANT TO PROVIDE THIS PROTECTION. EVEN WITHIN THE SAME BLOCK GRANT AREAS -- HEALTH AND HUMAN SERVICES -- THE REQUIREMENTS VARY. LET ME ILLUSTRATE, WITH REGARD TO:

- TRANSFERABILITY - PRIMARY CARE, AND MATERNAL AND CHILD HEALTH ALLOW FOR SOME, THOUGH TO VARYING DEGREES, BUT THE REMAINDER DO NOT;
- NON-DISCRIMINATION - EACH BLOCK GRANT CONTAINS BROAD PROVISIONS, EXCEPT SOCIAL SERVICES WHERE PREVAILING LAW APPLIES;
- AUDITS - STATES MUST HAVE INDEPENDENT AUDITS ON EACH BLOCK, BUT NOT ALL ARE REQUIRED ANNUALLY.

AUDITS

THE QUESTION OF AUDITS RAISES A GREAT DEAL OF CONCERN TO OUR COUNTY GOVERNMENTS. THE AUDIT LANGUAGE INCLUDED IN THE HEALTH AND HUMAN SERVICE BLOCK REQUIRES INDEPENDENT AUDITS ON EACH BLOCK OF PROGRAMS. SOME ARE

ANNUAL, WHILE OTHERS ARE NOT. YET IN THE COMMUNITY DEVELOPMENT PROGRAM, AGAIN SHOULD THE STATES OPT TO ADMINISTER THE SMALL CITIES PORTION, THE STATES WOULD BE SUBJECT TO AT LEAST AN ANNUAL PERFORMANCE AUDIT, AND WILL BE LIABLE FOR SUBRECIPIENTS. WITH EACH AGENCY REQUIRING INDIVIDUAL, AS WELL AS DIFFERENT TYPES OF AUDIT — THAT IS, INDEPENDENT, FINANCIAL OR PERFORMANCE; AND ANNUAL VERSUS MORE OFTEN, IT WILL BE VIRTUALLY IMPOSSIBLE FOR THE STATE GOVERNMENT TO EFFECTIVELY MANAGE THE AUDIT PROCESS. WHY SHOULD WE BE CONCERNED? SINCE AUDIT LANGUAGE HOLDS STATES LIABLE FOR SUBRECIPIENTS, EACH STATE WILL BE REQUIRED TO "INSURE" THEMSELVES BY ESTABLISHING THEIR OWN PROCESSES. SUBRECIPIENTS CAN BE AUDITED MORE THAN ANNUALLY, AS THE STATES CHOOSE. UNDER THE NEW PROCESS, CURRENT AUDIT PROBLEMS, PARTICULARLY MULTIPLE REVIEWS, WILL BE MAGNIFIED.

IN ADDITION, NONE OF THE PRESENT BLOCK GRANTS PROVIDE FOR EFFECTIVE USE OF THE SINGLE AUDIT. CONSEQUENTLY, RECIPIENTS WILL BE HARDPRESSED TO ATTEMPT ANY APPLICATION OF PRESENT SINGLE AUDIT PROCESSES OR PROPOSED MODIFICATION AS INCLUDED IN THE "FEDERAL ASSISTANCE REFORM ACT OF 1981." NACO HAS SUPPORTED THE SINGLE AUDIT PROVISION INCLUDED IN THAT LANGUAGE. WE URGE THAT AUDIT LANGUAGE IN ANY BLOCK GRANT

1. NOT ESTABLISH NEW AUDIT PROCESS;
2. ALLOW FOR, AND ENCOURAGE, EFFECTIVE USE OF THE SINGLE AUDIT CONCEPT; AND FINALLY
3. PLACE SOME RESTRICTIONS SO THAT PASS-THROUGH FUNDS ARE AUDITED WITH THE SAME CONCEPTS AND PROCESSES USED AT THE RECIPIENT LEVEL.

THIS ASSURES ACCOUNTABILITY, AND MORE IMPORTANTLY, AN EFFECTIVE MANAGEMENT PROCESS.

IDEAL BLOCK GRANT LANGUAGE

SENATORS, ENOUGH SAID ON THE PROBLEMS WE ARE PRESENTLY WITNESSING, I NOW WOULD LIKE TO SPEND A FEW MOMENTS DISCUSSING WHAT WE VIEW AS AN "IDEAL GRANT." LAST MARCH, OUR BOARD OF DIRECTORS ESTABLISHED THE FOLLOWING PRINCIPLES TO GUIDE WASHINGTON IN THE PLANNING OF BLOCK GRANTS:

- REASONABLE TRANSITION TIME SHOULD BE ALLOWED TO MOVE FROM CATEGORICAL TO BLOCK GRANTS;
- NO MATCHING FUNDS SHOULD BE REQUIRED OF LOCAL GOVERNMENTS.
- NO MAINTENANCE OF EFFORT SHOULD BE REQUIRED;
- STATE AND LOCAL GOVERNMENT LAWS AND PROCEDURES GOVERNING SPENDING SHOULD APPLY TO BLOCK GRANTS;
- LOCAL AUDIT PROCEDURES SHOULD BE USED;
- EMPHASIS SHOULD BE ON SAVINGS TO TAXPAYERS, AND NOT JUST A SHIFTING OF COSTS FROM FEDERAL TO LOCAL TAXPAYERS;
- PROGRAMS SHOULD BE CONTROLLED BY ELECTED COUNTY, STATE AND CITY OFFICIALS ANSWERABLE DIRECTLY TO THE TAXPAYERS;
- THERE MUST BE AN ABSOLUTE REDUCTION IN FEDERAL MANDATES AND REGULATIONS;
- BLOCK GRANT ALLOCATIONS SHOULD USE CURRENT FORMULAS FOR DISTRIBUTION OF FUNDS.

THESE PRINCIPLES WERE REAFFIRMED BY OUR GENERAL MEMBERSHIP AT OUR ANNUAL CONFERENCE IN JEFFERSON COUNTY (LOUISVILLE), KENTUCKY.

IN ADDITION, NACO'S MEMBERSHIP ADOPTED A POSITION OPPOSING BLOCK GRANTS FOR WELFARE ENTITLEMENT PROGRAMS, SUCH AS AFDC, MEDICAID AND FOOD STAMPS, BECAUSE THESE TYPES OF ASSISTANCE NEEDS ARE NATIONAL IN SCOPE AND COUNTY GOVERNMENTS DO NOT HAVE THE REVENUE NECESSARY TO SUPPORT THESE PROGRAMS. A COPY OF THAT RESOLUTION IS ATTACHED TO OUR STATEMENT.

We believe that the funding recipient shall be based on the level of government who performs the service. Consequently, counties take issue with narrow interpretations which see state governments as the only eligible recipients. In many cases, county governments provide the basic service for which the states have received funding. In these instances, at the very least, we believe Congress should provide an automatic pass-through provision and cap on state administrative costs so that we have the necessary funds to provide the essential service.

Specific Boiler Plate Language

Mr. Chairman, I now would like to address the specific language you propose.

On behalf of county governments, nationwide, I offer our appreciation for the time you and your staff have spent in developing this language, and your willingness to work so closely with the NACo staff. Because of your diligent effort to consult us, I can tell you that the National Association of Counties wholeheartedly endorses the following sections of your proposal:

- Statement of Purpose
- Definitions
- Application and Coordination
- Non-discrimination
- Agency Reports
- Use of Funds
- Audit, (with the exception of the set-aside for cost reimbursement and no pass-through provision)
- National Assistance Standards
- Regulatory Provisions

We find the proposed language simple, yet to the point. We believe that its adoption in future block grants will alleviate some of the present problems

AND CONFUSION. HOWEVER, WE WISH TO MAKE CLEAR THAT WE VIEW THIS LANGUAGE AS A BEGINNING POINT -- ONE IN WHICH WE HOPE TO BUILD UPON IN PLANNING FUTURE BLOCK GRANT PROGRAMS.

WE SPECIFICIALLY ENDORSE THE CONSULTATION PROVISIONS PROVIDED UNDER THE APPLICATION AND COORDINATION AND REGULATORY PROVISIONS. WE RECOMMEND THAT A SLIGHT VERBAGE CHANGE BE MADE UNDER SECTION 114(C) TO READ "UNITS OF STATE OR LOCAL GOVERNMENT, OR THEIR REPRESENTATIVES, OR THEIR REPRESENTATIVE ORGANIZATIONS," INSTEAD OF "REPRESENTATIVES OF THEIR ORGANIZATION." WE ARE PARTICULARLY PLEASED BY THE PROVISION UNDER 114(C) TO ENSURE CONSULTATION OF FORMER RECIPIENTS OF THE PROGRAM, AND WE WHOLEHEARTEDLY ENDORSE AND COMMEND THIS REQUIREMENT. WE URGE THAT REPORT LANGUAGE ENSURE THAT CONSULTATION MEANS MEANINGFUL CONSULTATION, AND THAT BLOCK GRANT PROGRAMS ADMINISTERED BY THE STATES SHOULD REFLECT THE RECOMMENDATIONS MADE BY LOCAL ELECTED OFFICIALS IN THE CONSULTATION PROCESS.

WE ENDORSE THE ADMINISTRATIVE COST CEILING IMPOSED UNDER SECTION 109(B), AND STRONGLY RECOMMEND INCLUSION OF THIS VITAL PROVISION IN LANGUAGE ADOPTED HERE TODAY. IN LIEU OF THE INTENSE BUDGETARY RESTRAINTS FACING ALL LEVELS OF GOVERNMENT, ADMINISTRATIVE COST CEILINGS ARE ESSENTIAL, PARTICULARLY FOR THOSE PROGRAMS WHICH ARE PASSED THROUGH TO SUBRECIPIENTS.

IN REGARDS TO THE AUDIT SECTION, THE LANGUAGE PERMITS USE OF THE SINGLE AUDIT CONCEPT, AND REDUCES THE REPORTING BURDENS THROUGH THE ACCEPTANCE OF ANOTHER AUDIT. WE WHOLEHEARTEDLY ENDORSE THIS CONCEPT. SUCH A PROVISION WILL REDUCE PAPERWORK AND COUNTLESS HOURS THROUGH THE ACCEPTANCE OF A COUNTY'S GENERAL REVENUE SHARING AUDIT. THIS WOULD APPLY, HOWEVER, ONLY IF THE COUNTY WERE THE DIRECT RECIPIENT. WE URGE THAT THIS SAME PRINCIPLE BE APPLIED TO SUBRECIPIENTS TO ENSURE THAT FUNDS PASS THROUGH STATE GOVERNMENTS DO NOT CREATE ANY NEW OR ADDITIONAL AUDIT WORK FOR LOCAL GOVERNMENTS. IN ADDITION, WE RECOMMEND THE DELETION UNDER SECTION 110(H) WHICH PROVIDES FOR A SET ASIDE

OF BLOCK GRANT MONIES FOR COST REIMBURSEMENTS OF REQUIRED AUDITS. HOWEVER, WE DO NOT OBJECT TO THE REIMBURSEMENT CONCEPT. WE SIMPLY DISAPPROVE OF SET ASIDES.

REGARDING THE NATIONAL POLICY ASSISTANCE PROVISION, WE OFFER TWO SIMPLE RECOMMENDATIONS: REPORT LANGUAGE SHOULD CLARIFY WHAT IS MEANT BY CERTIFICATION PROCESS AS A SIMPLE ACCPETANCE OF A RECIPIENT'S ASSURANCE BY LETTER, AS SIGNED BY THE CHIEF ELECTED OFFICIAL, TO BE IN FULL COMPLIANCE AND SECOND, THAT THE APPEALS PROCESS, AS PROVIDED UNDER SECTION 112(A) BE AN INDEPENDENT PROCESS, THAT IS, A PROCESS SEPARATE FROM THE AGENCY INVOLVED.

NEW PROVISIONS

MR. CHAIRMAN, AS I STATED EARLIER, WE SEE THIS BOILER PLATE LANGUAGE AS A PROMISING AND HOPEFUL BEGINNING STEP. IT IS NOT ALL INCLUSIVE, AND DOES NOT, BY ANY MEANS, ADDRESS OUR MOST PRESSING CONCERN -- THAT IS, THE ENTIRE QUESTION OF PASS-THROUGH. IF A LOCAL GOVERNMENT PERFORMS THE SERVICE, THE PROGRAM AUTHORIZED TO PROVIDE ASSISTANCE FOR THAT FUNCTION SHOULD AUTOMATICALLY GO TO, OR AT THE VERY LEAST BE PASSED THROUGH TO, THE LOCAL GOVERNMENT. WE URGE THE INCLUSION OF SUCH A PROVISION IN THE BOILER PLATE LANGUAGE. THIS, COUPLED WITH THE ADMINISTRATIVE COST CAP, WILL ENSURE THAT LOCAL GOVERNMENT WILL HAVE THE NECESSARY RESOURCES TO PROVIDE ESSENTIAL SERVICES WITHOUT INTERRUPTION.

IN ADDITION, SOME BLOCK GRANTS HAVE PROVIDED FOR A TRANSFERABILITY OF FUNDS AMONG PROGRAM AREAS RANGING FROM 0 - 10%. NACO WOULD RECOMMEND THAT PERCENTAGES INCORPORATED IN FUTURE BLOCK GRANTS BE (1) UNIFORM AND (2) NO MORE THAN TEN PERCENT AT A MAXIMUM.

MOREOVER, NACO URGES THAT ADDITIONAL PROVISION BE INCLUDED IN THE BOILER PLATE WHICH SPECIFICALLY RESTRICTS AGENCIES' USE OF MAINTENANCE OF EFFORT AND MATCHING REQUIREMENTS FOR LOCAL GOVERNMENTS. SUCH A PROVISION WOULD PROTECT LOCAL GOVERNMENTS FROM CONTINUING TO FUND PROGRAMS FOR WHICH THEY HAD PREVIOUSLY RECEIVED FEDERAL DOLLARS, BUT WERE NO LONGER RECEIVING FUNDS UNDER BLOCK GRANTS, AND WHO COULD

NO LONGER PROVIDE THE SERVICE WITH OWN SOURCE FUNDS. RESTRICTIONS ON MAINTENANCE OF EFFORT AND MATCHING ARE REQUIRED BY THE FACT THAT LOCAL GOVERNMENT COFFERS SIMPLE CANNOT AFFORD THEM, PARTICULARLY IN LIGHT OF THE PRESENT FINANCIAL STRAINS IMPOSED BY BUDGETARY RESTRAINTS AND STATE SPENDING LIMITATIONS.

CONCLUSION

CHAIRMAN DURENBERGER, THIS CONCLUDES OUR FORMAL COMMENTS ON THE PROPOSE BOILER PLATE LANGUAGE. I TAKE THIS OPPORTUNITY TO OFFER OUR SINCERE APPRECIATION FOR THE TIME AND EFFORT YOU HAVE GIVEN THIS IMPORTANT TOPIC, AND FOR HAVING THE FORESIGHT TO RECOGNIZE A NEED TO DEVELOP AND APPLY SUCH LANGUAGE. WE LOOK FORWARD TO YOUR LEADERSHIP TO SEEK SUPPORT OF SUCH LANGUAGE IN BOTH THE ADMINISTRATION AND CONGRESS, AND OFFER OUR UNTIRING SUPPORT IN THIS REGARD.

FINALLY, SENATOR, WE TAKE THIS OPPORTUNITY TO ENDORSE, ONCE AGAIN, S. 807, THE FEDERAL ASSISTANCE REFORM ACT OF 1981."

THOUGH WE BELIEVE BOILER PLATE LANGUAGE IS NECESSARY AND WHOLEHEARTEDLY SUPPORT IT, WE RECOGNIZE THE NEED FOR AN ESTABLISHED, ONGOING CONGRESSIONAL PROCESS WHICH ALLOWS FOR REVIEW AND COMMENT OF ALL PROPOSED BLOCK GRANTS IN A HEARING FORUM. S. 807, INCLUDING TOUGH EXPEDITE PROCEDURES, IS AN APPROPRIATE STEP IN THE RIGHT DIRECTION. WE WOULD URGE THIS SUBCOMMITTEE TO CONTINUE TO WORK TOWARD FINAL PASSAGE OF THAT BILL.

SENATORS, ON BEHALF OF COUNTY GOVERNMENT, NATIONWIDE, I THANK YOU AND WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE REGARDING THE POLICIES PRESENTED HERE THIS MORNING.

NEW JOINT HUMAN SERVICES AND HEALTH AND EDUCATION RESOLUTION
OPPOSING BLOCK GRANTS FOR ENTITLEMENT PROGRAMS

WHEREAS, the National Association of Counties believes that health and welfare are problems of national scope, which require that the federal government bear primary responsibility,

WHEREAS, NACo supports welfare and health care financing reforms and national standards of eligibility and benefits among states and uniformity among programs, a federally-supported welfare jobs program, and cashing out the food stamp program,

WHEREAS, welfare and health costs are responsive to conditions of the national economy such as inflation and unemployment and to federal laws and policies governing immigration and residence not within the control of local or state governments,

WHEREAS, programs such as Aid to Families with Dependent Children (AFDC), Food Stamps, and Medicaid are entitlement programs, in which all who meet the needs test must be assisted,

WHEREAS, the Administration proposes to convert funding for said programs into block grants to states,

WHEREAS, said block grants would place a ceiling on federal funding for health and welfare assistance and shift the full cost of program growth and inflation to states and counties,

WHEREAS, the National Association of Counties vigorously opposes any federal spending reductions that shift costs to counties, be it therefore,

RESOLVED, that the National Association of Counties opposes block grants for federal entitlement assistance programs and believes that the federal government should move toward primary responsibility for welfare and medicaid.

Fiscal Note

Positive fiscal impact on counties by averting a shift in current federal fiscal responsibilities to counties and states.

Negative fiscal impact of as much as $3 billion annually could accrue to counties if the federal government ceases to share in uncontrollable entitlement growth.

The federal government currently pays the full cost of food stamp benefits and shares the administrative costs with states. Despite annual legislative changes to curtail costs, the program grew from $6 billion in 1977 to $11.4 billion this year. Unless cost increases drop to zero, counties would have to begin sharing in costs above the proposed federal block grant of $10 billion, estimated to be from $1 to 3 billion annually.

The federal government currently pays approximately 50% of AFDC and Medicaid costs under open-ended matching formulas. Counties contribute to aid costs and administrative costs in 14 states. Under a closed end appropriation, states could be expected to pass along to counties some of the burden of higher costs which could not be controlled by modifications in state programs. Counties are currently paying about $2 billion for welfare matching. This could double if states fail to cut back severely on welfare eligibility and benefits. In some states, counties would experience higher general assistance and hospital costs as a result of state curtailment of other welfare benefits.

Approved Human Services Steering Committee, July 11, 1981

Approved Health and Education Steering Committee, July 11, 1981

RESPONSES TO WRITTEN QUESTIONS SUBMITTED TO MR. RUSSELL

Question 1. In your statement, you spoke of some of the history of the categorical grants, and indicated that small towns have been effectively denied access to many Federal assistance programs. What changes in these programs do you suggest to ensure more small town accessibility?

Answer. Small towns, most of which are served by part-time elected officials, often do not have the capabilities to handle the complex administrative requirements associated with most federal grants. Though these localities are eligible for federal (or state) assistance, many are unable to apply because of the red tape attached to the application procedure alone.

In addition, if a town does manage to apply and receive federal assistance, the corresponding requirements of a grant are often too complex and costly to fulfill. They are not designed for the simple, basic characteristics and problems of small towns and have requirements which are inappropriate to their needs. Many federal programs have been too complex in their goals. For instance, a town that desperately needs a very simple, basic sewer system, may have to apply for a sophisticated wastewater construction treatment plant instead. Though NATaT has actively supported reauthorization of EPA's Wastewater Construction Grants program, the Association also advocated for reforms in the program that would allow rural areas and small communities to receive assistance for very fundamental sewage needs, rather than highly technological solutions which are more appropriate to the needs of some larger cities.

Audits are another difficulty for small towns. A simple, single audit measure for assistance programs would cutback on high costs for small communities trying to accommodate numerous and complicated audit requirements.

Finally, small towns are often unaware of what programs are available at the federal level. Again, they do not have hired "guns" or professionals to search out and apply for assistance for their communities. Part-time local officials—though an example of dedication in the purest sense since they are usually unpaid, yet they are responsible for vital services for which they are immediately accountable—are normally unable to keep up with what grants are coming out of what agencies or how to apply. NATaT supports grant reform legislation which would address some of these problems.

Question 2. At the hearing, we briefly discussed the role of OMB circulars in the block grant process. Do you believe that some OMB Circulars should be included as elements of that process, and if so, which ones?

Answer. In general, NATaT supports a block grant process which imposes minimal requirements on localities—smaller communities in particular. This position applies to OMB circulars as well as the aspects of the grant process for reasons discussed in the Association's testimony and in answer to other questions here.

Question 3. Each member of the local panel at the hearing believed that a "passthrough" provision should be included as a necessary element in the block grant process. We would like to recommend in our report language that a portion of the program funds should be set aside by the Congress to continue multi-year funding at the local level if the local unit has placed a large portion of its funds toward the completion of a project or activity supported by the program, or has in any other way made a substantial commitment, believing that the program's multi-year funding would continue. I would like your written comments, from the small-town perspective on this sort of a passthrough process.

Answer. NATaT is on record in support of honoring multi-year commitments for HUD's Community Development Block Grant program (CDBG) so that communities which have begun a project with the understanding that they would be funded in subsequent years, will not have the rug pulled out from under their feet, possibly jeopardizing the completion of the project (which not only means waste of funds already spent, but aggravation of the problem for which the project was designed to handle). NATaT, however, also supports ensuring that smaller jurisdictions—which for the aforementioned reasons in question number one—are eligible and able to apply for block grants as they are transferred to the states, though they may not have been federal program participants previously.

Question 4. The element of the technical assistance is another area which I think is very important to NATaT. We have given some thought to this concern, and I believe that information about participation in the block programs could be supplied to towns and townships as a part of the public hearing and citizen participation process. Do you agree, and if so, what specific elements of information do you recommend to be included in this process?

Answer. As the Association has testified and included in our block grant program recommendations, NATaT is well aware of the need for technical assistance for smaller localities, in particular, in the block grant process. Town officials need to know what assistance is available, and often even why it's available is important to them. NATaT can of course help in the dissemination of some of this information but, as each state takes various block grant programs, it will become increasingly difficult for the Association to reach the thousands of localities across the country affected by the programs of fifty different states. Also, once smaller localities are aware of programs, they will also need assistance on how to apply and comply with the programs' requirements. For example, adequate publicity on public hearing dates and dissemination of materials on block grant programs to all local officials—from the smallest township to the largest city—is critical to the success of block grants.

RESPONSES TO WRITTEN QUESTIONS SUBMITTED TO MR. GROSS

Question 1. At the hearing, we briefly discussed the role of OMB Circulars in the block grant process. Do you believe that some OMB Circulars should be included as element of that process, and if so, which ones?

Answer. NLC has no strong feelings about the need to reform OMB circulars as part of any process to block current programs or create new block grants.

Question 2. Each member of the local panel at the hearing believed that a "passthrough" provision should be included as a necessary element in the block grant process. We would like to recommend in our report language that a portion of the program funds should be set aside by the Congress to continue multi-year funding at a local level if the local unit has placed a large portion of its funds towards the completion of a project or activity supported by the program, or has in any other way, made a substantial commitment, believing that the program's multi-year funding would continue. I would like your written comments, from the perspective of the cities, on this sort of passthrough process.

Answer. We favor a "passthrough" provision for any "boilerplate" language you may develop and, in fact, I included a suggestion for how this might be done in my statement. My suggestion was intended to strike a compromise between state interests who do not want to be unduly hampered in the allocation of funds by such a provision and the concerns of local governments who do not want to have programs cut-off midstream. Your suggestion to add a further condition which would require the local unit to show that it has already made a substantial commitment to the project or program meets with our approval. It is consistent with our objective of providing protection for programs of a continuing nature. However, we believe that "passthrough" language should be included in the bill regardless of what clarifying language is added to the report.

Question 3. In your testimony concerning the audit provisions in our "boilerplate" language, you were generally concerned about imposing some reasonable limits upon the authority of the State government recipient to audit subrecipients, or local governments. Do you anticipate that the audit of subrecipients will be a frequent occurrence in the block grant system? Could you compare your expectations in this area, with prior subrecipient audit experiences under other State administered federal programs?

Answer. Your characterization of our position on the audit provisions is at variance with the concern we meant to convey. It is not so much our concern that limits be imposed on states on how or when they might choose to audit subrecipients of funds. We assume that states will need to have an accounting of funds that they passthrough to subrecipients in order to answer to the Federal Government. Our position is that we want subrecipients to have the option of meeting any audit requirements by submitting a single audit conducted by an independent auditor. We seek to avoid recreating the current federal gamut of audit problems in each of the 50 states. We have also made it clear that, where a subrecipient does not exercise its option to submit a single audit, the recipient should be able to conduct its own audit.

Question 4. In discussing the issue of portability at the hearing, you stated that a re-design of program formulas could lessen recipient needs for the transferability of funds. Wouldn't this formula re-design necessarily involve a recategorization of the programs by introducing more federal direction as to the use of funds in specific areas? How do you feel about this possible recategorization?

Answer. The point I wanted to make during the hearings with respect to the issue of portability is that it is highly unlikely that an allocation of funds to any recipient through a block grant would exceed the needs of a recipient in the general service area intended to be addressed by the block grant. The problem we currently face is that there are insufficient funds to meet needs, particularly as federal funds are cut back, which has been the case with all of the block grants created so far. Therefore, there is no need to permit a percentage of funds to be shifted from one broad service area to another. If there is that need, then the block grant has been very poorly structured at the federal level in the first place. The way to correct the problem is to redesign the block grant. That does not involve recategorization of programs but rather sending funds where they are most needed.

RESPONSES TO WRITTEN QUESTIONS SUBMITTED TO MR. GUNTHER

Question 1. At the hearing, we briefly discussed the role of the OMB Circulars in the block grant process. Do you believe that some OMB Circulars should be included as elements of that process, and if so, which ones?

Answer. OMB Circulars: The OMB circular system seems to be in a state of some disarray and we would be concerned about writing specific circulars into the proposed act without some further clarification as to their force and effect. We would welcome an opportunity to work with your Subcommittee to flesh out the assorted strengths and weaknesses in the circular system.

Question 2. Each member of the local panel at the hearing believed that a "passthrough" provision should be included as a necessary element in the block grant process. We would like to recommend in our report language that a portion of the program funds should be set aside by the Congress to continue multi-year funding at the local level if the local unit has placed a large portion of its funds towards the completion of a project or activity supported by the program, or has in any other way made a substantial commitment believing that the program's multi-year funding will continue. I would like your written comments from your particular perspective, on this sort of a passthrough process.

Answer. Mandatory Passthrough; To the extent programs are consolidated into block grants to states, the Conference of Mayors supports very strong "passthrough" requirements. The percentage of passthrough should be based on the proportion of funds which were allocated to local governments under the separate categorical programs over some base period, perhaps FY 77–81. In addition, we support some reassurance that multi-year funding projects be continued. This is especially important under the small cities Community Development Block Grant program, since these cities had the expectation of continued federal funding. Multi-year projects should continue to receive funding as long as the local government has made any commitment to the project. The words "substantial" and "large" used in this phrasing are really too vague and indefinite and leave too much leeway for interpretation by the states and HUD.

Question 3. You spoke of the need for flexibility at the local level, and of the need for assurances that the grant funds will get down where the actual problems are. Can this be accomplished through the consultation process, or are additional sources of local revenue going to be necessary to fill in the gap which would be created under the block grants?

Answer. Portability of Funds: Yes, we believe that if a state truly does not need its full allocation of funds for a particular activity and needs more funds for another block grant activity, then this problem should be addressed through federal allocation formulas. It does not seem reasonable or desirable for the federal government to allow states to transfer funds from one purpose to another completely different purpose, thereby subverting the original Congressional intent when it funded the programs, and introducing unnecessary complexity and uncertainty for local governments in their budgeting and planning.

Question 4. In discussing the issue of portability at the hearing, George Gross, of the National League of Cities, indicated that a re-design of program formulas could lessen recipients' needs for the transferability of funds. I believe that this would necessarily involve a re-categorization of the programs by introducing more federal direction as to the use of funds in specific areas. Do you agree, and do you believe that formulas could be re-designed so as to reduce the need for recipient portability of funds?

Answer. Redesigning Formulas: The block grants allow states wide latitude and discretion in deciding how to spend funds and for what activities, within broad areas. Terminating their ability to reallocate 10 percent of block grant funds to some other activity entirely, does not seem to me to constitute excessive "federal direction" or "recategorization." It simply is a way of reasserting some federal control over the expenditure of federal funds and ensuring that federal objectives are achieved.

Senator, a few other comments are in order. In reviewing the Durenberger bill, we are especially concerned that its transition provisions would supercede provisions enacted in the Housing and Community Development Amendments of 1981, passed as part of the Omnibus Reconciliation Act last summer. We believe that the unique history of the Community Development Block Grant program for Small Cities, now administered through states, as well as the special circumstances of the 1981 Amendments' passage, argue strongly for exempting this particular state block grant from the general provisions of your proposed bill.

Under the 1981 Amendments, Congress limited to 2 percent of the federal grant amount the funds which states could use for administration of the program. The Amendments further limited this provision by requiring a dollar-for-dollar match for this 2 percent in state funds. Section 304 of the Amendments also specifies that only states which have demonstrated that they already have or are putting in place a program of technical assistance to subgrantees may participate in the block grant program; that states must provide at least 10 percent in additional state funds for community development or related purposes in order to participate in the program; that states must certify they have consulted with local officials in the design of the program and the allocation of funds; and that states must certify they engage in or will engage in community development or planning activities as a condition of participation in the state block grant.

These provisions were hammered out after extensive consultations with national organizations representing local governments, such as the U.S. Conference of Mayors and the National League of Cities, as well as directly with state and local officials themselves. The provisions were first developed by the Senate Committee on Banking, Housing, and Urban Affairs, and were developed explicitly to protect the intent and structure of the Small Cities Community Development Block Grant. Unlike other block grants, this proposal underwent significant amendment in the Senate. and later, in conference with the House, and reflects concerns peculiar to the Community Development Block Grant process.

Unlike all the other block grants, Community Development Block Grants in Small Cities have always been funded directly between the federal government and units of general local government. The shift of administration to states was extremely controversial, and was agreed to only after the provisions of Section 304 were worked out. It would be a serious mistake to abandon these provisions now in favor of general block grant language when the provisions of the Housing and Community Development Amendments of 1981 provide a much stronger measure of protection for affected local governments.

RESPONSES TO WRITTEN QUESTIONS SUBMITTED TO MR. HILLENBRAND

Question 1. At the hearing, we briefly discussed the role of the OMB Circulars in the block grant process. Do you believe that some OMB Circulars should be included as elements of that process, and if so, which one?

Answer. The National Association of Counties has long supported federal grant circulars because we believe they are an invaluable management tool for grant recipients and grantor agencies alike. We believe that OMB circulars should set uniform guidelines and procedures while providing some flexibility to insure such circulars compliment rather than impede good management practices. With regard to their application to block grants, NACo believes that the circulars should apply. Although many discretionary grant programs remain, nonetheless, a sizable and important number of programs have been revised as block grants. Coordination among block grants with remaining discretionary programs requires the use of uniform and complimentary management practices as it relates to auditing, accounting, citizen participation or other types of hearings, and the like. In particular, NACo believes the following circular should apply to block grants: A-95, A-102, and A-87.

Though these circulars may have particular problems since the majority has been designed to apply more toward a number of discretionary programs, we believe with some revisions, and through consultation with state and local officials, modification can assure that the circulars enhance grants management for both discretionary and block grants. The circulars, by themselves, however, should provide uniform guidelines and not prescriptive procedures that impede management.

Question 2. Each member of the local panel at the hearing believed that a "passthrough" provision should be included as a necessary element in the block grant process. We would like to recommend in our report language that a portion of the program funds should be set aside by the Congress to continue multi-year funding at the local level if the local unit has placed a large portion of its funds towards the completion of a project or activity supported by the program, or has in any other way made a substantial commitment believing that the program's multi-year funding will continue. I would like your written comments, from your particular perspective, on this sort of a passthrough process.

Answer. NACo's statement called for a passthrough of block grant dollars to the local government responsible for providing public services. Just because a local unit of government has appropriated a substantial amount of their resources to a particular activity in the past, is not by itself an appropriate test for passthrough. Passthrough dollars should be provided when a local government 1) has responsibility or authority to provide the public service for which the grant funds are authorized, and 2) where the local government has prior experience, or commitment. This dual test will ensure that the level of government providing a particular service receives the necessary funding.

Question 3. You spoke of the need for flexibility at the local level, and of the need for assurances that the grant funds will get down where the actual problems are. Can this be accomplished through the consultation process, or are additional sources of local revenue going to be necessary to fill in the gap which could be created under the block grants?

Answer. Since local governments are the primary service deliverers in our intergovernmental system, local elected officials must have assurances that they will have the necessary resources to provide the services. The local property tax is already hard pressed and cannot be stretched to assume many large shortfalls to cover when block grant moneys run low or out. The consultation process can provide a valuable service to ensure that the states appropriate funds appropriately to meet the need. However, the most crucial question centers on the allocation plan the state uses to decide where the block grant dollars are to be spent. Consultation, again, will provide the local government focus in the state plan. But we also believe that set criteria should be required of the state to ensure that the block grant dollars go as far as possible in meeting local government service delivery needs. This criteria includes: mandatory passthrough based on experience in providing the service, and prior use, coupled wth responsibility to provide the service; use of own procedures in expending funds; reduction of waste, and so forth.

Senator DURENBERGER. Our next panelists will represent the United Way of America and the National Association of Regional Councils. Becky Malkerson is from the United Way of Minneapolis. Our second panelist will be Mr. William O. Beach, judge from Montgomery County, Tenn., who is here on behalf of the National Association of Regional Councils.

Before we continue, I would like to introduce into the record at this point, a statement which Senator Jim Sasser made available to me.

[The statement referred to follows:]

PREPARED STATEMENT OF SENATOR JIM SASSER

Mr. Chairman, about a week ago, President Reagan gave a graphic demonstration of the change that has taken place this year in the Federal system. He compared the 312 pages of regulations which used to govern the old categorical grant programs with the 6 pages just issued to guide the administration of block grant programs.

Well, we don't need any crystal ball to tell us that this transition to more consolidation of grant programs may be a rocky one. For one thing, although the

President didn't say so, the changeover to block grants is accompanied by a 25 percent funding cut. Yet, the poor are still with us and communities must still meet their needs.

While those who receive Federal aid welcome the prospect of less prescriptive requirements, this sudden reduction in pages in the Federal Register leaves a lot of questions unanswered.

Who will audit these block grant programs? How often will they be examined and according to whose standards? How will the Congress know that the program funds are properly spent?

What will happen to the cities and the counties? Does the State step in to administer funds that formerly came directly from the Federal Government?

Will public hearings be held on the use of the funds so that the community will continue to have a voice in the decisionmaking about priorities?

What about civil rights and equal opportunity statutes? Are these requirements scrapped along with the pages from the Federal Register?

I think that we need some answers to these questions. You are to be complimented, Mr. Chairman, for holding this very timely hearing on the requirements for the administration of block grant programs. This meeting affords those of us who sit on the Intergovernmental Relations Subcommittee an opportunity to hear from representatives of the States, local governments and other organizations charged with running the block grant programs.

I am pleased to note that my good friend and frequent advisor, Judge William O. Beach is presenting testimony at the hearing. As the chief executive officer of Montgomery County, Tennessee, and as a member of the Mid-Cumberland Regional Council there, Judge Beach knows first-hand about the problems that this transitional period may bring at the local level.

Judge Beach can also give us a national perspective. He has served as a member of the Advisory Commission on Intergovernmental Relations and as National president of both the National Association of Regional Councils and the National Association of Counties.

So, thank you, Mr. Chairman, for holding this timely hearing. I look forward to reviewing the testimony to be presented here today.

Senator DURENBERGER. You may introduce the people who are with you prior to making your statements. We will proceed first with Becky Malkerson. Becky, we are most happy to have you here today with us.

TESTIMONY OF BECKY MALKERSON, UNITED WAY OF MINNEAPOLIS AND UNITED WAY OF AMERICA; ACCOMPANIED BY PATRICIA BARRETT, VICE PRESIDENT FOR GOVERNMENT RELATIONS AND PUBLIC POLICY, UNITED WAY OF AMERICA; AND HON. WILLIAM O. BEACH, JUDGE, MONTGOMERY COUNTY, TENN., ON BEHALF OF THE NATIONAL ASSOCIATION OF REGIONAL COUNCILS, ACCOMPANIED BY JOHN BOSLEY, LEGAL COUNSEL, NATIONAL ASSOCIATION OF REGIONAL COUNCILS

Ms. MALKERSON. Thank you, Mr. Chairman.

I am a volunteer for the United Way of Minneapolis and the United Way of America. I am here today to represent both of these organizations. With me is Patricia Barrett, vice president for government relations and public policy for the United Way of America. I would like to thank you for this opportunity to testify before the Intergovernmental Relations Subcommittee of the Senate Governmental Affairs Committee and for working with your staff on this bill.

There are over 2,200 United Ways providing support for human services in communities of all sizes across the country. Many of these United Ways are also deeply involved in human services planning to improve our ability to get services to those in need. Right now the United Ways are working hard to develop and put into place mechanisms for determining how to set service priorities in an area of shrinking resources.

The administration's block grants are transforming current methods of allocating Federal funds for human services, and shifting the focus of decision making almost completely to the State level. The decisions made under this new system are crucial ones for our human services systems—determining what services will be reduced or even eliminated. We support your efforts to standardize these procedures among the new block grants. We hope they will simplify this process and help to insure that these decisions on human services allocations are made carefully and thoughtfully.

To promote the greatest consistency, these provisions should apply to all new programs labeled block grants. The Governmental Affairs Committee's efforts to standardize certain block grant provisions in title XVII of the Omnibus Reconciliation Act excluded programs such as title XX that were not formerly categorical in nature. We hope that this legislation will not make such distinctions.

This issue is one of great importance to the United Way. Over the past two decades a partnership has developed between the public and voluntary sectors for the delivery of public services. This partnership has enabled communities to address their needs comprehensively with a broader array of services. This partnership should continue. The planning and allocations process for block grant funds must incorporate elements of this partnership to be really comprehensive. States and localities should make use of the expertise available in United Ways and other voluntary organizations.

Several months ago, United Way of America's Government Relations Committee, chaired by William Ellinghaus, president of American Telephone & Telegraph, established a subcommittee to study the administration's block grant proposals and make recommendations on the elements all block grants should include to insure effective planning, priority setting and accountability processes. This subcommittee and its parent committee are composed of United Way volunteers from several different communities, including Minneapolis. The recommendations developed were approved by the entire government relations committee. I would like to submit this report for the record and highlight a few issues from it.

[The report referred to follows:]

REPORT ON A PLANNING AND CITIZEN ACCESS PROCESS IN BLOCK GRANTS

BACKGROUND

The Administration's block grant proposals would transform current methods of allocating Federal funds for human services, shifting the focus of decision making almost completely to the state level. The decisions made under this new system are crucial ones for our human services systems, determining what services will be reduced or eliminated.

To make sound decisions, public and voluntary officials must develop a meaningful public process for assessing community needs and setting service priorities at the local level where most social problems are dealt with and service capabilities are known.

Over the past two decades a partnership has begun to develop between the public and voluntary sectors in the delivery of human services. This partnership has enabled communities to address their people's needs comprehensively with a broader array of services. This partnership is a key element of any planning and priority setting process, and it should be strengthened. The partnerhip was forged partly through the commingling of public and private dollars as matching funds required to draw down Federal funding for human services. This practice should continue.

Action is needed at the Federal, state and local levels to grasp this opportunity for developing a sound planning process and a strong public/voluntary partnership.

At the Federal level, United Way of America should work to incorporate a sound planning and allocations mechanism into the block grant legislation. United Way of America should build coalitions to accomplish this goal and work closely with national public sector organizations, such as those representing state legislatures, who would have common concerns in creating an open process.

At the State level, United Ways are urged to support this goal by seeking executive or legislative action to establish a local planning process to supplement any Federal guidelines enacted.

At the local level, United Ways should build coalitions to determine community needs and how best to respond to them with the resources available.

PROPOSED LEGISLATIVE ACTION

United Way of America should support the incorporation of strong planning and accountability provisions into any grant consolidation or block grant legislation proposed in Congress.

I. Support for provisions proposed by the Administration

1. The pre-expenditure report: States must circulate to the public a pre-expenditure report that outlines those services they intend to provide under the block grant program and describes the eligibility criteria.
2. The revised pre-expenditure report: Any time substantial revisions are made in the report because of comments received, a revised pre-expenditure report must be prepared and made public.
3. The post-expenditure report: This is a report made on what services the state actually provided under the block grant and what client and eligibility groups received the services. This report is required to correspond to the pre-expenditure report so that the dynamics between the pre-expenditure report and the post-expenditure report may be traced.

II. Support for additional planning and accountability provisions

A. Access Issues:

A system of State and local advisory committees should be established. They should be broadly representative of the communities they serve, including the voluntary sector, business, labor, city and county officials and consumers.

The pre-expenditure report should be circulated for at least 30 days before it is finalized.

The pre-expenditure report should be published widely prior to state budget action on these or related items.

The pre-expenditure and post-expenditure reports should include data on the allocation of funds to each local area and should indicate the method of determining those allocations. These reports should also include any sums shifted to other block grant programs as allowed by law.

B. Accountability Issues:

Data in the pre-expenditure and post-expenditure reports for all block grants should be standardized and coordinated. This may require the development of a common language.

The post-expenditure report should be prepared annually and should be widely circulated.

Audits should be conducted annually and Federal agencies should accept a single audit for each agency.

C. Public/Voluntary Partnership Issues:

Strong language should be added supporting the public/voluntary partnership in the delivery of services.

The Federal Government should continue maintenance of effort and state matching fund requirements. The matching fund requirements should be set at a percentage that would represent the average requirement for the categorical programs being consolidated. The voluntary sector and local government should be permitted to provide matching funds.

Ms. Malkerson. We believe that the public hearings are important in establishing public input, but what is said there is too easily forgotten. In addition, a State advisory committee should be established as a vehicle for citizen review. It should have substantial and meaningful input to the formulation of the pre-expenditure report. Such a committee should be broadly representative of each State's makeup.

United Ways utilize a citizen review process in making allocations from the over $1½ billion in private funds raised annually across the country. Local citizen volunteers of all walks of life develop priorities for community needs. Volunteers also serve on allocations panels to review agency programs and budgets and to determine where to put the United Way dollars. A citizen review process should be utilized in the public sector as well. Utilizing broad public input is the only way to make the difficult choices on what services are essential to the community.

To make informed decisions, it is essential to develop a meaningful public process for assessing community needs and setting service priorities at the local level where most social service problems are dealt with and service capabilities are known. We are pleased that your legislation focuses on local input by calling for consultation with local officials. We have supported that concept in the past with regard to the title XX program.

But we would also like to see stronger measures to stimulate the development of a bottoms-up process. A network of local citizen advisory committees could be established to provide a focal point for local input and a mechanism for feeding this perspective to the State advisory committee. Local committees would be best able to determine local needs and formulate local solutions. The State advisory committee's role would be to balance local proposals with statewide needs and considerations.

United Way of America is also supportive of your efforts to standardize post-expenditure reporting and to require it annually. The only point we would add is that, in order to enhance the citizen review functions and grass roots accountability, these reports should correspond roughly to the data in the pre-expenditure reports. This would enable the public to determine whether the State actually did what it said it was going to do.

In the past the public/voluntary partnership often hinged on the pooling of funds to meet matching fund requirements. Some of the new block grants have eliminated matching funds entirely. This lapse may weaken the public/voluntary partnership and further reduce funds available to meet human needs. Without the matching funds, the State may reduce its own commitment of resources to human services. In the social services block grant, formerly title XX, this could result in service cuts of 45 percent rather than just the 20-percent cut by the Federal Government. It could also result in an unwillingness to enter into joint activities with the voluntary sector when the need for voluntary dollars for matching is no longer present. Some States have recognized the importance of these joint activities and the need to stretch dollars by pooling our resources and have, I understand, decided to voluntarily continue a matching fund program.

My final point relates to a regulatory issue—one that was not raised during the legislative process enacting the block grants. The Department of Health and Human Services has asserted in its block grant regulations that these programs are exempt from the provisions of OMB Circular A-122, "Costs Principles for Nonprofit Organizations." The Office of Management and Budget has acquiesced in this approach. United Way is very concerned about this action both for the impact it will have on voluntary agencies and for the precedent it will set.

Circular A-122 aids voluntary agencies by establishing Federal Government-wide standards on what costs are allowable for payment under Federal grants and contracts with voluntary organizations. It specifically applies to subrecipients of the Federal funds that flow through the States or units of local government. This circular clarifies many troubling and costly issues for the voluntary sector. It permits nonprofit organizations to negotiate an indirect cost rate for their grants and contracts instead of having to justify separately each item of administrative overhead in its budget. The circular also gives the decisions of program staff in approving a voluntary agency's budget precedence over the interpretations of auditors coming in after the program has been operating and claiming that some budget items are now allowable. This protects voluntary agencies from costly disallowances even though they were acting in good faith.

If Health and Human Services is permitted to exempt the block grants from this circular through its own regulations, it would render this circular meaningless. This is so, first, because the greatest proportion of Federal funding to the voluntary sector is coming through these block grants. Second, this action would constitute a back door amendment of the circular without following the standard procedures for doing so.

As a consequence, United Way urges the subcommittee to require compliance with the OMB circulars. If modifications are needed in these circulars to give States greater flexibility, then this issue should be weighed and considered in the proper form, not in the context of implementing the block grants.

In conclusion, we support the need to establish consistent principles for State administration of each of the block grants and urge that these administrative requirements be used to foster a thoughtful, meaningful process for allocating our diminishing resources to competing human needs.

Thank you.

Senator Durenberger. Thank you very much.

We will now hear from our second witness on the panel, Judge William O. Beach from Montgomery County, Tenn., on behalf of the National Association of Regional Councils.

Mr. Beach. Thank you, Mr. Chairman.

I would like to point out in the first place that I am a local elected official, but I am testifying today in my capacity as a member of the board of directors of the National Association of Regional Councils.

We do appreciate the opportunity to present our views on intergovernmental issues surrounding the block grant programs. We feel, as you will see later in my testimony, if the States would involve the local officials in the same way that your subcommittee has done, we would be making a lot of progress.

We are particularly glad to address the legislative draft which the subcommittee staff has developed in consultation with the State and local government representatives.

The National Association of Regional Councils represents approximately 350 of the Nation's 600 substate regional councils of local governments. In the main, regional councils are agencies of local governments and operate under the direction of city and county elected officials. They do fill a gap in our intergovernmental structure by dealing with problems that transcend jurisdictional boundaries and must be addressed on a regional basis. The basic responsibility of a regional council is to be an umbrella agency which facilitates regional coordination and management activities. Many regional councils also arrange for the implementation of regional policies.

By their nature, regional councils must deal with Federal, State, and local concerns and thus, in most cases, have evolved into truly intergovernmental brokers. By bringing parties together and opening channels of communication, they resolve conflicts through compromise and negotiation.

Our testimony today, Mr. Chairman, will be in three parts. Part one will address the principles which we believe to be essential to intergovernmental coordination under block grants. Part two includes our thoughts on the need to move beyond block grants to a reexamination of the Intergovernmental Cooperation Act of 1968. Last, part three addresses the legislative draft which is the centerpiece of today's hearing.

As for the first part of our testimony, NARC supports a block grant approach that provides flexibility in problem solving to both the State and local levels. But we have been increasingly concerned about the lack of local government and substate regional council involvement in the decisionmaking process surrounding the expenditure of block grant funds. In our view, there must be closer consideration given to encouraging State or local partnerships as responsibilities are devolved to the State and local levels.

The Federal Government, we think, should assume a leadership role during devolution by actively encouraging States and local governments to work together to solve the difficult problems that will emerge as the result of fewer resources. Because State bureaucracies have the same inherent limitations as Federal ones, Federal devolution must reinforce the roles and responsibilities of those general purpose units of local government which the State itself has created.

In the past, the Federal Government has become involved in local programs as a way of equalizing the disparities that were not being addressed at the State level. Two particular issues have driven this Federal involvement in local programmatic issues. First, the Federal Government recognized that States and regions have differing fiscal limitations; that is, some areas are richer than others. Recognizing that there will always be a difference in relative wealth, the Federal Government attempted to establish an acceptable "floor" which would assure every citizen certain social and economic opportunities, so that they would not be put at a disadvantage by happenstance of geographic location.

Second, it was recognized that most States have failed to address the fiscal disparities among their own cities and counties. Even when it is within a State's power to somewhat alleviate this—through its system of taxation, for example—State legislatures have not generally responded to narrow fiscal disparities.

The nature of our Federal system is that it is constantly changing and evolving. Because States failed to meet these needs, the Federal Government stepped in and assumed the role of equalizer. As we move into block grants and other devaluation steps, these disparities will still need to be addressed. We believe that they should be addressed in the form of general national principles and goals on intergovernmental cooperation which those States involved in block grant programs should adhere to.

States should not just be vehicles for funneling Federal block funds; they should be called upon to illustrate their commitment to block grant goals by State contributions. They should also show that they have taken the next step in devolution by involving the local level. If a State wishes to deviate from the principles articulated at the national level, then it should be required to legislate alternative approaches for achieving intergovernmental coordination. And if it does not wish to have local governments involved in the decisionmaking process at all, it should be required to legislate them out of the priority-setting process.

I, personally, don't believe this is a good alternative, but it is put there for emphasis—that local governments must be involved if the thing is going to succeed.

It is our strong belief that even with devolution of Federal funding and program responsibilities, the Federal Government still has a responsibility to help define domestic priorities and goals. I think others have testified to that point this morning. Futhermore, if the goals of New Federalism are to be achieved, cooperation among the other partners in the Federal system—State and local governments—is a crucial ingredient for success.

In order to achieve the intergovernmental cooperation that is pivotal to the successful implementation of devolution and block grants, we see the following principles as essential. I am now giving you the six points that the Board of Directors of the National Association of Regional Councils has decided upon:

(1) Where categorical programs have traditionally been administered by local governments or by regional councils—which is simply a voluntary association of local governments—similar direct funding should continue, by mandating a passthrough or formula governing State allocation of these funds to these units.

(2) As new State roles are created by such block grants or devolution of formerly held Federal authority, these roles should be defined through joint determination between the State and local governments, or at least by joint consultation. Even if the State makes the final decision, local governments must be guaranteed an input into the decision. Moreover, this should be advanced through the contribution of State financial resources to the block grant program or other activities transferred to the State. Such jointly determined programs should make effective use of relevant substate regional councils to relate city and county regional interests with the State's financial administration of the block grant program.

(3) Block grant programs to be administered by the States should contain federally identified features that provide for such cooperative regional approaches.

(4) Where interstate metropolitan areas are involved, the Federal Government has a continuing responsibility to insure coordinated and consistent planning and programs for such areas through the cooperative efforts among the States and local governments through their regional councils.

(5) States shall be required by block grant provisions to have a joint determination process with local governments and their regional councils on the allocation of resources provided through block grant programs.

(6) Federal policy should be developed to encourage the use of general purpose local governments and their regional consortia in program delivery as well as planning. Relationships between States and special agencies that are not accountable to the electorate have been fostered through Federal policy in the past. To be consistent with the home rule tenet of the New Federalism, Federal policy should recognize local governments and their regional consortia as the preferred units to assist States in the priority-setting process.

Now I see that my time is running out. Rather than read the rest of the statement, I would like simply to summarize the second and third parts of my testimony, if I may, Mr. Chairman.

Senator DURENBERGER. Please.

Mr. BEACH. Beyond the six principles in the block grant approach, let me interject that the time is right for revision of the Intergovernmental Cooperation Act of 1968. What we really need is a set of overriding principles that looks beyond both block grants and categoricals and addresses basic intergovernmental issues such as preference for local governments in receiving and administering Federal aid, insuring that States respect local and substate regional policies while fulfilling their Federal grants-in-aid responsibilities and furthering Federal goals, encouragement of substate regional council participation in State-oriented Federal programs, and standardization of cost principles where programs are administered by the States.

As for the subcommittee draft, the key reason we are here today is to comment on the draft developed over the last several weeks. This draft is a significant first step in addressing some of the issues I have raised. NARC does appreciate the opportunity to work along with the subcommittee staff and other State and local government groups on the development of this draft.

The effort has not been without some elements of urgency. Most of us realize the administration is working on at least a few new block grant initiatives. To have some impact in the process, we have to work quickly. A number of difficult issues have been put on the back burner for the time being.

There are two key points we ask to be reexamined. They are not controversial and we think they can be easily resolved.

First, the issue of interstate metro areas. There are 37 interstate metro areas, with a total population of 56 million people, which is one-quarter of the Nation's population. These interstate areas could very well be left out of block grant participation unless the Federal Government provides some leadership in this regard. The White House has expressed concern about this.

We propose that language be developed to encourage State and local governments to form cooperative policies and programs for interstate metro areas. If a block grant will have a substantial impact on the development of an interstate area, then each State recipient should be required to allocate a portion of its entitlement to the interstate metro area for the cooperative development of policies and programs affected by the block. We would be happy to work with your staff to develop specific language on that.

Second, original administration drafts of block grants contained a provision allowing States to use a portion of their block grant funds to purchase technical assistance. This was overlooked during congressional consideration. We propose that such language be included in the draft before this panel.

With the two additions we have noted above, this draft represents, in our view, the best available alternative to the preferred conditions that we have described in our statement. We still believe there should be some guidance from the Federal level to encourage State Governors and their legislative bodies to develop an equitable formula that would take into consideration the level of funding local areas would have been receiving through categoricals now being blocked. But we won't go into that point today.

We want to thank you, Mr. Chairman, and the subcommittee for the opportunity of testifying before you today.

Senator DURENBERGER. Thank you very much. I appreciate your testimony, and your full statement will, of course, be made a part of the record following your oral testimony.

Becky, as you were going through your statement, you introduced some material into the record. If it is too long, it will be made a part of the subcommittee's file.

Ms. MALKERSON. It is attached to the statement.

Senator DURENBERGER. Let me start with questions directed at the United Way.

There is a recommendation in your statement that we establish citizen advisory groups at the State and local levels as a part of the block grant process. Would you recommend establishing a separate network for each block grant, or one which would oversee all the grants involved?

Ms. BARRETT. I think a separate network would be too cumbersome, but certainly I think it could be one network for health and human services at the very least.

That would deal with all of the issues related to the several block grants.

Senator DURENBERGER. So your answer is somewhere in between the two. Are you suggesting that one for each block grant would be most appropriate?

Ms. BARRETT. That is right.

Senator DURENBERGER. You made one recommendation relative to the State advisory committee, as I recall. Is the United Way suggesting that State legislatures form some kind of a citizens' committee to oversee the appropriations process? Is that the notion of the State advisory committee?

Ms. Barrett. No. The idea is to have an advisory committee at the State level, a coordinating network, and local advisory committees feeding into it. They do this on a regional basis in Tennessee. They set that up several years ago to implement the title XX program. The idea is that you feed in local input to a State advisory committee which would put it all together and make statement recommendations and maybe fill in some gaps.

Senator Durenberger. That relates back to your response to the previous question.

Ms. Barrett. Right.

Senator Durenberger. Let me ask you about the OMB circular A-122. I think I heard you loud and clear say—and it makes an awful lot of sense—that it puts you in a rather untenable position. Can you think of any other OMB circular which should apply to the process? Let me ask you that question first.

Ms. Barrett. Circular A-122 is really the only one that applies directly to nonprofit organizations. That is the one that we are most familiar with. I would hesitate to comment on some of the others. We don't deal with them that much.

Senator Durenberger. Let me ask about the people on your left. Does the United Way favor the application of the A-95 review process on the block grants?

Ms. Barrett. We really don't have a position on that. So I can't say.

Senator Durenberger. It would be, at least, interesting—and probably more than that—if there was a way for the United Way of America to reflect on the value of the A-95 review process and/or the role of the regional councils in this whole business of grant-making. Otherwise, your testimony would stand the same. You should develop some kind of a new citizens' network out there to handle the process. This, in effect, leaves us with no comment from a lot of the organizations, that are delivering services, about the process which has developed over the last 12 or 15 years as we develop A-95. It would be helpful if we had the views of the United Way and some of its member agencies.

Ms. Barrett. We will review that and give them to you.

[The information follows:]

United Way of America,
Alexandria, Va., January 4, 1982.

Senator David Durenberger,
Russell Senate Office Building, Washington, D.C.

Dear Senator Durenberger: At the October 6 hearings of the Senate Governmental Affairs Subcommittee on Intergovernmental Relations, you asked for United Way of America's position on using the A-95 review process to provide local citizen review of the block grant plans. At that time I said we would consider this proposal and advise you of our position on it.

We believe that the A-95 review process would be an unsuitable mechanism to provide citizen input and review to state block grant plans at the local level. The A-95 review process does not involve the general public, but instead is a mechanism to ensure input and review to Federal grant proposals to the various governmental units in a local area. The people who sit on the review panels for A-95 are government employees, not members of the general public. A good citizen review process should be broadly representative of the make up of the community and represent nongovernmental interests and perspectives.

We appreciate your efforts to deal constructively with the block grant administrative processes and hope that we can continue to work with you on this issue.

Sincerely,

Patricia R. Barrett,
Vice President,
Government Relations and Public Policy.

Senator Durenberger. Let me ask you about planning and reporting. I take it United Way favors a fairly detailed planning process that is imposed by the Federal Government on the agencies at the State and local levels.

Considering that the recipients are also governments to begin with, what value does the planning requirement add to the usual patterns of public decisionmaking?

Ms. Barrett. The greatest benefit that we see in it in terms of writing a plan—I guess we don't call it a plan any more; we call it a pre-expenditure report—but the greatest benefit that we see is that you are laying out for the public what you want to do. It is the public accountability which is advanced by having something on paper that is at least specific enough for most people to understand what services you are going to provide. We need something more than the State just saying "yes, we pledge that we will spend this money on social services or on health." Who are you going to serve and what are you going to provide them with?

That is what we think is terribly important, that the public be given a chance to assess the process and that it is out in the open.

Senator Durenberger. Why do you think the Federal requirement becomes so important? The statement clearly indicates the process through which we are going. More decisions are going to be made at the State level, rather than the Federal level. Someone, who is not familiar with how the process operates at the State and local level, might assume that the United Way is better off if it believes in this planning and reporting process under the new system rather than the old. You seem to imply that a Federal requirement on recipient governments for a planning process is necessary. Why do you feel that?

Mr. Barrett. We feel that, particularly right now, the decisions which are being made because they relate to cutbacks really relate to changing priorities for service. It needs to be a thoughtful process. The Federal Government needs to, at least, nudge the States in that direction—at least in terms of stating that the intent is still a good process should be developed. We think that this is a very critical period for human services and it is an opportunity, too, to set up some really good systems. Most people involved in human services have been complaining for years that there is no real system and it is all haphazard, especially because of the categorical programs.

Now that we are shifting to block grants, this really does give us an opportunity to set up some workable systems which will be lasting systems—not just to deal with this cutback crisis of today, but on into the future—to set up something that will be an open, workable process, which will come up with some really good decisions at the local level on what to do with very, very few resources.

Senator Durenberger. My concern is that, if we tell them—or even encourage them—to plan and report, then we have to tell them what kind of plan, how to set up the plan and how to report. While I don't agree with the President always on everything he says, one of the things, which is certainly realistic about the combination of cutbacks in Federal spending and blocking and categorical grants, is his emphasis on the community response, voluntarism, and the response of voluntary organizations.

It is the city councils, the county boards, and so forth, who will be coming to the United Way and a whole variety of other organizations. You still, I take it, feel that we should be telling them to come to you in some fashion?

Ms. **Barrett**. We think it should be encouraged and you are absolutely right. They are coming to us and we are going to them on the local level in many, many communities around the country. United Ways, city officials and county officials are getting together and forming planning commissions to discuss just these issues. But we feel that there has to be some encouragement in the Federal legislation that this intent be present, and that these kinds of things should be happening. Even if only in report language it would be helpful.

Senator **Durenberger**. Judge Beach, let me ask you some specific questions. Let me first take the issue of the interstate metropolitan areas. Were interstate metropolitan governments administering funds from any of the 60 or so categoricals which were consolidated into the nine block grants by the reconciliation bill?

Mr. **Beach**. Yes. I think so. I meant to introduce my colleague, John Bosley, legal council for the National Association of Regional Councils. If I may refer that question to him, he can answer more specifically than I can.

Mr. **Bosley**. Yes, Senator. There were. The ones that come to mind immediately would be the EMS, Emergency Medical Service program, which in most States was administered at least at the metropolitan level through regional councils. In some States, programs like alcohol and drug abuse and prevention programs were also administered through regional councils. So, they have had some exposure to those two areas. We assume that that will continue as these programs are consolidated.

Senator **Durenberger**. Do you have an opinion on which specific program areas would be absolutely essential for some funds to be set aside for interstate regional government? You mentioned a couple that are affected. I don't think those are necessarily essential. I could understand UMTA as being one. Are there others?

Mr. **Bosley**. I think any of the programs that really deal with the development such as the transportation programs. Traditionally, they have had a metropolitan perspective mandate in them. You find environmental protection problems, such as water and air quality, are more regional than they are local. Then metropolitan aspect should be continued.

Mr. **Beach**. May I add to that, Mr. Chairman?

Any program or set of programs that have been traditionally handled by the regional councils, whether they be intrastate or interstate entities, would affect these metro interstate agencies. I think that would apply to them the same way as it would apply to an intrastate regional council—because of the nature of the problem being one that transcends local jurisdictional value lines which cities and counties alone can't handle very well.

Senator **Durenberger**. Let me ask you a follow-up question, just in case it was misunderstood back home. Another way to accomplish this whole end would be to make interstate regional governments eligible recipients of block grant funds directly from the Federal Government. This would, in effect, cut out the cities which are included in the funds that go to the States. Do you think that the cities, which we are talking about here in this interstate system, might prefer funds going to an interstate regional government rather than having to go to their own State governments?

Mr. **Beach**. Of course, I couldn't answer for all of the local governments. I doubt it. But I would say, insofar as NARC policy is concerned, we would not advocate that even though there are problems involved in block grants in different States and in the apportioning part of that money from each State to the metro area. I think that would be a more preferred approach to the problem than direct money to metro areas.

What you are doing there makes it—you are approaching then a governmental entity. We don't claim to be governmental entities at all. We are made up of governmental entities—cities and counties. I would prefer, personally, the approach of leaving the block grant program to the States and then figuring out formulae and methods for aiding the metro areas as their needs call for it.

Mr. **Bosley**. I don't have a different perspective, although I also have acted as counsel to the local regional council here which is an interstate agency. I think many of the elected officials in this area probably would prefer looking toward their own entity rather than the State's.

I think that is an unfortunate situation. I think our area local officials think it is unfortunate. But I would agree with Judge Beach that, rather than trying to take the State out of the system, we should bring the State into the system as a creative partner. But to do that, we really need Federal policy.

Senator **Durenberger**. My next point is on the intrametropolitan fiscal disparity. Your testimony makes the statement very strong that, for the past 20 years or so, we have been creating programs for the cities here in Washington. Those programs are designed largely to capture the wealth of the suburbs through the Federal income tax, and return it to the cities which made the wealth possible in the first place.

We are doing this, in effect, because in a lot of cases the States didn't deal with the problem. I share the President's desire to return program responsibility to the State and local governments. I don't necessarily believe that we can be successful at that revolution here in Washington. The success depends, in a critical way, on somehow restructuring local governments. Every community of any size has within it the wealth to provide the services that are necessary. A lot of the communities are broken into little political jurisdictional pieces so that the wealth just can't be appropriately taxed to solve the problems.

So, again reflecting the background from which I come and the success that we have had in the Twin Cities area in this regard, it seems the regional governments—or a regional entity which is not a government, as you have well stated—is, or could be, the focus of the revolution that makes the return of responsibilities more realistic and lasting.

I wonder if either of you would expand on your comments and prepared testimony. Please give your feelings about the appropriate future of these regional entities in looking at a metropolitan area as more than just a geographical mixture of small political entities.

Mr. Beach. I will comment first on that, if I may, Senator.

In the first place, as you know, in the entire country we have only two places where the regional entities have the powers of government—in your area, Minneapolis/St. Paul, and in the Portland area.

All the rest of the regional councils in this country are simply associations of local units of government, cities and counties. The NARC policy, which reflects the strong feeling of the vast majority of our members, is that we certainly do not promote the idea of regional governments, but we certainly do not object to it in those areas where the people seem to want it.

In Minneapolis/St. Paul and Portland, we look upon those experiments with great interest. It may well be that other areas of the country will develop similar governmental agencies, independent entities, out of their regional consortium. But the attitude of most local officials making up the regional councils is such that they don't want to push this idea.

We just want to leave that to the people in the respective areas of the country, to decide for themselves. That is about all I can say about that. I do think that the Minneapolis/St. Paul and the Portland experiments are most interesting. We follow their programs with great interest.

Senator Durenberger. Your statement indicates one problem of exporting the notion of what we are doing. It is not a mistake which is only made by people from Tennessee and other places. It is made right in the State of Minnesota. There is the concept that it is another layer of government. Actually it is an agency of State government, and is so interpreted by our courts. It doesn't always work that way, or even appear to work that way. But, it is not another layer of government.

Mr. Beach. I believe the Portland thing does constitute another layer of government. I realize the officials in the Minneapolis/St. Paul metro area are appointed rather than elected, appointed by the Governor and by the State.

Senator Durenberger. Do you want to comment further? I just want to go back to the premise on which I built this. That is, we are facing the prospect of some kind of devolution and nobody is clear on the shape that it is going to take. The great concern at the local government level is clearly going to be that, as part of the devolution process, cities are going to have their lifeline to Washington cut. As individual governments, they are going to be left out in the cold. Whereas, from a practical manner, many of them are part of the strong, healthy, taxable income-producing metropolitan areas. If they just looked at it in that fashion, rather than one's suburb against somebody else's suburb or core city ,they may not fear this cutting of the lifeline.

Mr. Bosley. Senator, I will have to tread softly here, but I will venture a few comments if I might. I think the approach that NARC has traditionally taken, one with which I agree, is to divide the question of the governance from the question of the kind of structure, if you prefer.

To my mind that is an important distinction. I think the late, great Senator from your State probably had a good fix on this kind of a question. He proposed, in the original revenue sharing bill, a requirement that each State has, as a condition to receiving revenue sharing moneys, to study questions like fiscal disparity and the questions of the inefficiencies and problems that such disparities might have in governing our metropolitan regions.

Unfortunately, those conditions are not applied to the act. We rarely experienced States having to put these types of questions on their agenda. But we think they are important issues. They are national in their implications.

We need to have some sort of a policy. I think that is what we were driving at, not in specific terms, but in general terms when we suggested the Intergovernmental Cooperation Act might be the vehicle for asking States—encouraging them, not mandating them—to address these kinds of issues. It is only through that kind of a dialog that we are going to start to have some new approaches emerge. Of course, as Judge Beach has said, the style in which this is accomplished is not as important as the fact that we try to address these questions better than they are apt to be addressed at the present time.

[Judge Beach's prepared statement follows:]

NATIONAL ASSOCIATION OF REGIONAL COUNCILS
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RICHARD C. HARTMAN, Executive Director

STATEMENT OF

WILLIAM O. BEACH

Judge, Montgomery County, Tennessee
Member, Mid-Cumberland Council of Governments; and
Board Member, National Association of Regional Councils

ON BEHALF OF THE
NATIONAL ASSOCIATION OF REGIONAL COUNCILS
BEFORE THE
SENATE GOVERNMENTAL AFFAIRS COMMITTEE,
SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS
ON
BLOCK GRANTS

October 6, 1981
Washington, D.C.

Mr. Chairman, I am Judge William O. Beach of Montgomery County, Tennessee, and a member of the Mid-Cumberland Council of Governments. I am here today in my capacity as a Board member of the National Association of Regional Councils.

We appreciate the opportunity to present our views on intergovernmental issues surrounding block grant programs. We are particularly glad to address the legislative draft which subcommittee staff has developed in consultation with state and local government representatives.

The National Association of Regional Councils represents approximately 350 of the nation's 600 substate regional councils of local governments. In the main, regional councils are agencies of local governments and operate under the direction of city and county elected officials. They fill a gap in our intergovernmental structure by dealing with problems that transcend jurisdictional boundaries and must be addressed on a regional basis. The basic responsibility of a regional council is to be an umbrella agency which facilitates regional coordination and management activities. Many regional councils also arrange for the implementation of regional policies.

By their nature, regional councils must deal with federal, state and local concerns and thus, in most cases have evolved into truly intergovernmental brokers. By bringing parties together and opening channels of communication they resolve conflicts through compromise and negotiation.

Our testimony today, Mr. Chairman, will be in three parts. Part one will address the principles which we believe to be essential to intergovernmental coordination under block grants. Part two includes our thoughts on the need to move beyond block grants to a re-examination of the Intergovernmental Cooperation Act of 1968. Lastly, part three addresses the legislative draft which is the centerpiece of today's hearing.

PART ONE: ESSENTIAL PRINCIPLES FOR BLOCKS

NARC supports a block grant approach that provides flexibility in problem-solving to both the state and local levels. But we have been increasingly concerned about the lack of local government and substate regional council involvement in the decision-making process surrounding the expenditure of block grant funds. In our view, there must be closer consideration given to encouraging state/local partnerships as responsibilities are devolved to the state and local levels.

The federal government must assume a leadership role during devolution by actively encouraging states and local governments to work together to solve the difficult problems that will emerge as the result of fewer resources. Because state bureaucracies have the same inherent limitations as federal ones, federal devolution must reinforce the role and responsibilities of those general purpose units of local government that the state itself has created.

In the past, the federal government has become involved in local programs as a way of equalizing the disparities that were not being addressed at the state level. Two particular issues have driven this federal involvement in local programmatic issues. First, the federal government recognized that states and regions have differing fiscal limitations; that is, some areas are richer than others. Recognizing that there will always be a difference in relative wealth, the federal government attempted to establish an acceptable "floor" which would assure every citizen certain social and economic opportunities, so that they would not be disadvantaged by happenstance of geographic location.

Secondly, it was recognized that most states have failed to address the fiscal disparities among their own cities and counties. Even when it is within a state's power to somewhat alleviate this--through its system of taxation, for example--state legislatures have not generally responded to narrow fiscal disparities.

The nature of our federal system is that it is constantly changing and evolving. Because states failed to meet these needs, the federal government stepped in and assumed the role of equalizer. As we move into block grants and other devolution steps, these disparities will still need to be addressed. We believe that they should be addressed in the form of general national principles and goals on intergovernmental cooperation which those states involved in block grant programs should adhere to.

States should not just be vehicles for funnelling federal block funds; they should be called upon to illustrate their commitment to block grant goals by state contributions. They should also show that they have taken the next step in devolution by involving the local level. If a state wishes to deviate from the principles articulated at the national level, then it should be required to legislate alternative approaches for achieving intergovernmental coordination. And if it does not wish to have local governments involved in the decision-making process at all, it should be required to legislate them out of the priority setting process.

It is our strong belief that even with devolution of federal funding and program responsibilities, the federal government still has a responsibility to help define domestic priorities and goals. Furthermore, if the goals of new federalism are to be achieved, cooperation among the other partners in the federal system--state and local governments--is a crucia ingredient for success.

Key Points for Devolution Through Block Grants

In order to achieve the intergovernmental cooperation that is pivotal to the successful implementation of devolution and block grants, we see the following principles as essential:

(1) Where categorical programs have traditionally been administered by local government, or by regional councils, similar direct funding should continue, by mandating a pass through or formula governing state allocation of these funds to these units.

(2) As new state roles are created by such block grants or devolution of formerly held federal authority, those roles should be defined through joint determination between the states and local governments. Moreover, this should be advanced through the contribution of state financial resources to the block grant program or other activity transferred to the state. Such jointly determined programs should make effective use of relevant substate regional councils to relate city and county regional interests with the state's financial administration of the block grant programs.

(3) Block grant programs to be administered by the states should contain federally identified features that provide for such cooperative regional approaches.

(4) Where interstate metropolitan areas are involved, the federal government has a continuing responsibility to ensure coordinated and consistent planning and programs for such areas through the cooperative efforts among the states and local governments through their regional councils.

(5) States shall be required by block grant provisions to have a joint determination process with local governments and their regional councils on the allocation of resources provided through block grant programs.

(6) Federal policy should be developed to encourage the use of general purpose local governments and their regional consortia in program delivery as well as planning. Relationships between states and special agencies that are not accountable to the electorate have been fostered through federal policy in the past. To be consistent with the home rule tenet of the new federalism, federal policy should recognize local governments and their regional consortia as the preferred units to assist states in the priority setting process.

PART TWO: MOVING BEYOND THE BLOCKS--MORE FUNDAMENTAL QUESTIONS

Even as we move into the era of block grants, however, the President and many Congressional leaders are looking ahead. Moreover, although block grants are the emerging vehicle for federal government assistance, there is no single model being used. There are also many federal categorical programs still on the books that are expected to be continued for some time.

All this points to a clear need for us to move beyond a discussion of principles that should be included in the block grants to an examination and development of a set of overriding principles of intergovernmental cooperation. Such principles should transcend block grants and speak to all federal aid programs.

In short, the time is right for a re-examination of the Intergovernmental Cooperation Act of 1968.

This panel has already attempted to address some of the federal aid issues in its grants consolidation and simplification package. But there is still the need to reassess basic intergovernmental issues that deal with the rights and prerogatives of state, regional and local interests in the federal system.

Overriding Principles

The principles we outlined above relative to the block grants address many of these issues. If incorporated into block grant legislation they would be a good start toward achieving the smooth working intergovernmental system that is critical if new federalism is to succeed.

But we would also strongly urge the committee to look beyond the block grants and to develop legislation which cuts across both block grant and categorical concerns by addressing such basic intergovernmental issues as:

- preference for local governments in receiving and administering federal aid;
- insuring that states respect local and substate regional policies while fulfilling their federal grant-in-aid responsibilities and furthering federal goals;
- encouragement of substate regional council participation in state-oriented federal programs; and
- standardization of cost principles where programs are administered by the states.

Meaningful Roles In Decision-Making

Local governments and their regional councils have fought hard over the years to obtain a meaningful role in the decision-making process surrounding resource allocation. Such decisions affect the vital interests of the communities they represent. We would like to jump on the bandwagon and agree that once responsibilities and authorities are devolved to the state level that the states will respect local government priorities and needs of their own accord. But experience has shown that this is not generally the case.

The federal government has invested huge sums over the years to build the capacity of local governments to address their own community problems. New federalism should recognize that local governments should be full partners with their states in the decision-making process and encourage such joint determination.

This committee could make a significant contribution to the success of new federalism by developing broad legislation that promotes a comprehensive set of overriding intergovernmental principles. Devolution will mean that states and local governments will be encouraged to share responsibilities for meeting the needs of a state's citizenry. As intergovernmental partners, they should, therefore, also be encouraged to share in determining how resources are allocated to meet those needs.

PART THREE: THE SUBCOMMITTEE DRAFT

While the draft legislation before the subcommittee does not meet all the specifications that we would prescribe for state and local cooperation under block grants, we nevertheless recognize it to be a significant first step.

The draft is the result of a continuing process of consultation and compromise between the subcommittee staff and state and local government representatives. We appreciate the subcommittee's efforts to involve such groups in the development of this important legislation.

But even as we meet today a number of very important issues have been left unresolved--guidance on pass-through of funds to local governments for one, and encouragement of local government as the preferred recipients for funds below the state level, for another. These points are not easily resolved. Recognizing that to have an impact, legislation must be developed quickly, the state and local government groups attempted to move on to other points and reach a consensus.

Some Issues Not Beyond Compromise

There are still two major unresolved issues that are not beyond compromise, in our view. We hope they can still be addressed and solutions worked out.

First, interstate metropolitan areas must be addressed. According to the Advisory Commission on Intergovernmental Relations, there are 37 interstate metro areas, with a total population of 56 million--one quarter of the nation's population. These interstate areas could very well be left out of block grant particiption unless the federal government provides some leadership in this regard. The federal government has a special, overriding interest and legal responsibility to encourage cooperation among states and local governments in such areas.

Therefore, we propose that language be developed to provide for National policy encouraging states and local governments to formulate cooperative policies and programs for interstate metro areas. If a block grant will have a substantial impact on the development of an interstate area, then each state recipient should be required to allocate a portion of its entitlement to the interstate metro area for the cooperative development of policies and programs affected by the block. We would be happy to work with staff to develop specific language on this.

Secondly, original Administration drafts of block grants contained a provision allowing states to use a portion of their block grant funds to purchase technical assistance. This was overlooked during congressional consideration. We propose that such language be inserted, and I understand there are no real problems on resolving this issue.

With the two additions we have noted above, this draft represents, in our view, the best available alternative to the preferred conditions that we have described in our statement today. We still hold the strong belief that there should be some guidance from the federal level which encourages state governors and their legislative bodies to develop an equitable formula that takes into consideration the level of funding local areas have been receiving through categoricals being blocked. But we will not belabor that point today.

Mr. Chairman, let me just sum up by saying that with the addition of our points on interstate areas and technical assistance, we would support this effort as a good first step toward promoting intergovernmental coordination and priority setting under the block grant format.

Thank you.

Senator DURENBERGER. Thank you all very much for your testimony. I apologize to all of you for the inconvenience of having to move the hearing date from one time to another. I understand that some had travel problems.

Our next panel will be the fourth panel. This does not mean that we are going to skip the other panels, but that we will take the fourth panel now. This panel of witnesses consists of representatives from groups which have participated a great deal in the recent work of the subcommittee—the National Governors' Association and the Conference of State Legislatures. With us again today from the National Governors' Association is Stephen Farber, executive director; and representing the National Conference of State Legislatures, William G. Holland, director of the State of Illinois General Assembly, Washington Office.

We are pleased to have both of you here today. We look forward to your comments on our boilerplate language and anything else that you may wish to introduce. We will begin with Steve's testimony.

TESTIMONY OF STEPHEN FARBER, EXECUTIVE DIRECTOR, NATIONAL GOVERNORS' ASSOCIATION; WILLIAM G. HOLLAND, DIRECTOR, STATE OF ILLINOIS GENERAL ASSEMBLY, ON BEHALF OF THE NATIONAL CONFERENCE OF STATE LEGISLATURES

Mr. FARBER. Thank you, Mr. Chairman. It is a pleasure to be here today. Accompanying me is Deidre Riemer, who, as you know, is the staff director of the committee on executive management and fiscal affairs of the National Governors' Association and has worked very closely over a number of years with this subcommittee.

The chairman of that committee, as you know, is Governor Lamar Alexander of Tennessee, with whom you worked yesterday at the ACIR meeting.

Mr. Chairman, I would like to begin first by thanking you for your interest not only in this boilerplate language question, which is of crucial importance, but also in a range of issues that are of equal importance to the States and the intergovernmental system. Your work on S. 807, on the Federal Advisory Committee Act, and on the broad issue of sorting out the roles and responsibilities of Government has made great contributions to the intergovernmental system. We have enjoyed working with you on these problems, and we look forward to working on them with you further in the months and years ahead.

I believe you have made a great deal of progress on some aspects of those questions. We certainly share your view that more progress has got to be made soon for the intergovernmental system to function as effectively as it might.

With respect to the issue that is being reviewed in this hearing today, I would like to summarize, Mr. Chairman, some of the main points contained in my testimony, which I will submit for the record.

First, by way of overall summary, there is much in the latest draft of the boilerplate language that the National Governors' Association strongly supports. The application and coordination provisions are clear and concise. They guarantee full public participation in the decisionmaking process without establishing a burdensome process or an intrusive Federal role.

The provisions also provide States with lead time where it is needed to insure wise decisions. The audit section incorporates many of the reforms on which we have worked jointly. It is particularly helpful in that it gives recipients the authority to use existing practices to arrange for audits and to use audits performed for other purposes to satisfy the block grant requirement.

The regulatory provisions insure adequate consultation between the Federal Government and the recipients on block grant regulations, and protect recipients from arbitrary Federal administrative decisions.

I would like to summarize quite briefly some of the other major points in my testimony. They are as follows:

First, sections 103(g) and 114(g), which circumscribe the authority of the Federal agencies to devise administrative restrictions on recipients, are vital elements of the boilerplate language. They are, in our judgment, consistent with the very nature of the block grants, and we are pleased that these provisions remain.

Second, the question of administrative costs does need further study. The administrative cost question, as you know, came up rather hurriedly—as so many other issues did—with the passage of the block grants as part of the recent reconciliation bill.

There are questions with respect to the 10-percent limit on administrative costs—a matter on which we are doing further checking with State officials, although we detect no immediate problems today. There are also protection problems with respect to the practice of Federal agencies charging administrative costs to the block grants during the transition. We will want to do further work with the subcommittee on that issue as more details become available on the implementation of that particular provision.

Third, there should be no restrictions on the flexibility of recipients in the use of block grant funds. This, Mr. Chairman, I believe, is a central point of my testimony and the views of the National Governors' Association. The fundamental point of the block grants is to provide greater flexibility at a time when funds are clearly being reduced.

As you know, there was a 20-to-25-percent reduction in the funds going into block grant programs, not counting the effects of inflation. The President has now requested, as part of his continuing fiscal 1982 budget process, a further reduction of 12 percent. Given that reduction of funds, it is absolutely essential that the States, with respect to this first round of block grants—and the recipients of block grants generally—have the flexibility to make the best possible resource allocation decisions on the basis of conditions that remain in the States and in the localities. There is no substitute in our judgment for that kind of flexibility. Without it, the very effectiveness of the block grants and their capacity to deliver services will be jeopardized.

In my testimony, Mr. Chairman, I talked about some important factors relevant to State-local relations. They are facts dealing with the vast increase in State fiscal assistance to local governments; dealing as well with the assumption by States of responsibilities in service areas, such as welfare and education, that have been absorbed previously by local governments; dealing also with, for example, the fact that

State revenue sharing programs with local governments amounted to $6.8 billion as compared to $4.8 billion of Federal revenue sharing funds during 1978. The long and short of the point I am trying to make, Mr. Chairman, is that there is out there in the States—in Minnesota, in all of the States—a set of relationships with local governments that is ongoing, that is genuine and that is based on a fundamental premise. That I think, Mr. Chairman, is that the States, like the local governments, like the recipients of services, all have an enormous stake in the success of the block grants legislated already and those that may be passed in the future.

That is why, even though there are no specific public participation or public hearing requirements in this initial period of the first block grants, almost all of the States have as an automatic matter, as a matter of sound public policy, initiated such hearings.

Why? Because it is in their interest. It is in the interest of everyone concerned to see the block grants succeed. It is for this reason we believe that maximum flexibility in this area, as the President has recommended and as the Congress has legislated, makes sense. We, therefore, support the latest draft of the boilerplate language in this regard.

With respect, Mr. Chairman, to the issue of transferring between block grants—that issue, of course, has been addressed by some of the previous witnesses—our view is that a limited transfer in the 10-percent range does make sense.

I recall that Governor Lamar Alexander was taking about problems in his State of Tennessee in the human resources field. He pointed out that, in his judgment, the most pressing single problem in the health field is maternal and child health care—the infant mortality problem. He said that if he had the flexibility he would turn as much support as he could to the resolution of that problem in Tennessee even though it might not be so substantial a problem in another State. It seems to me that that is the essence of the rationale for this portability or this transferability provision, and viewed in that context we believe it makes good sense.

These, Mr. Chairman, are the major points that I wanted to make. There is a final point regarding the Federal Advisory Committee Act and the assurance of consistency between the provision of that legislation which is being considered, on the one hand, and section 114 of the boilerplate language on the other.

Clearly, the intention is the same. Some of my local colleagues who testified earlier spoke eloquently about the Federal Advisory Committee Act. It is a matter on which we have all spoken in the past with some passion. It seems to me, Mr. Chairman, that the steps you are taking within this framework and outside this framework as well to address that problem are to be commended.

We appreciate your strong support in this regard.

These are the major points in my testimony. I will be happy to answer questions when you are prepared.

Senator **Durenberger**. Thank you very much. Your full statement will be made a part of the record following your oral testimony.

Our second witness is Mr. Bill Holland, director of the Washington office, for the Illinois General Assembly. Welcome again, Bill.

Mr. HOLLAND. Thank you very much. With me today is Jim Frech, associate director of our office in Washington, and behind me is Gary Falle of the National Conference of State Legislatures.

I am grateful for the opportunity to appear before this subcommittee to testify on behalf of the National Conference of State Legislatures. I would like to present some of their views concerning the language being proposed by this subcommittee to be included in each and every future block grant proposal.

The National Conference of State Legislatures is encouraged to see this administration and Congress, through the block grant concept, taking steps to reduce the number of categorical grant programs and the rules and requirements associated with them. The consolidation of related Federal categorical programs into block grants can provide flexibility for States to target funds where they will do the most good.

If additional block grants are to be enacted, it is imperative that they include the flexibility needed for the States to operate them in the most effective and efficient manner possible.

I would like to commend the subcommittee members and staff for their work in drafting measures which generally recognize that accountabilities under State law and practice are sufficient to Federal interests. It is the subcommittee's intent, as I see it, to look at some of the basic relationships generally existing in Federal legislation creating block grants, and to set the basic responsibilities and uniform requirements to be followed by those involved. The subcommittee clearly deserves praise for these efforts.

For State governments, as recipients of funds, the proposals we have seen attempt to simplify and clarify procedures on: First, a State's application for Federal funds; second, the activities of the State under Federal law and regulation, including the use of funds; and, third, the post-administration financial audit and compliance review. In each of these three areas, State legislatures support simplification, clarity, and uniformity. They will serve to improve the entire system of providing services to our citizens.

We would, however, propose one caution. General language is not helpful if, in practice, it becomes minimum requirements only. It would be unfortunate if other statutes, like those which actually create the specific block grant, add additional requirements for the application, use, and review of any funds.

Since, in the history of the Federal Assistance System, States have always had to work under any and all Federal conditions, any general "boilerplate" language should supersede all other statutory provisions unless overruled by an express reference to any of its provisions.

Under law and practice at the State government level, States are already providing access and accountability over public policy making. In Illinois virtually every committee meeting of the general assembly is open to the public. With this in mind, general Federal requirements need not be overly prescriptive. A State government's own checks and balances can meet the Federal need—without duplicating, overburdening or confusing the process of delivery.

In Illinois, for a recent example, a joint resolution of the general assembly directed the Legislative Commission on Intergovernmental Cooperation to conduct hearings on the new block grants. Three block grant hearings were held in different parts of the State, providing opportunities for involved groups to speak on Illinois' implementation of the programs. As a result of this commission's action, legislation will be introduced in the general assembly to establish a continuing, independent board to perform much of the application and coordination functions called for in the legislative proposals of this subcommittee.

It is believed that this State-level action can serve to limit our own bureaucratic tendencies while providing for a more efficient and coordinated public policy discussion. In addition to these checks and balances, Illinois has a 4-year-old statute similar to the Federal Administrative Procedure Act calling for public notice and comment on all State agency regulations as well as for legislative review. Similar notice and comment legislation exists in a majority of the States.

As the subcommittee also knows, the State government has been a continuing resource provider for governments within the State, a third of whose funds now originate from the State government. The Federal Government can and should rely on State institutions and practices to provide for a representative discussion of priorities within the State.

I believe, Mr. Chairman, this concept of reliance forms the foundation of the subcommittee's proposals. The National Conference of State Legislatures can think of no greater contribution to the Federal Assistance System than this.

The legislative proposals that we have seen seek to guide or direct the Federal Government. We approve of measures, first, that require Federal agencies to approve proper applications without conditioning them or seeking additional feedback; second, that provide for reasonable transition periods to allow participants to adjust to Federal law changes; third, that provide for clear and limited audit responsibilities under Federal law; fourth, that provide for a reasonable transition under Federal regulatory changes; fifth, that allow States to design programs and services most appropriate for meeting the Federal objectives, and, sixth, that would also authorize States to transfer funds among similar purposes—but if and only if the transfer is to be exercised consistent with the law and practice within the State.

In general, we support each of these provisions, though we would be pleased to offer your staff suggestions for alternative language to address some more technical concerns.

The National Conference of State Legislatures does have a few concerns about some of the proposals we have reviewed. I would like to make one comment of a general nature, however. Much of the confusion in the Federal Assistance System stems from vague or incomplete Federal law. Any "boilerplate" block grant language should ensure that the meanings of the terms "applicant," "recipient," and "subrecipient" provide a clear differentiation between those applying but not yet having received Federal funds, those actually entering into obligations with the Federal Government, and those who will enter into agreements with the recipient.

While it is not found in the most recent draft, we do have great concern about proposals that require States to make specified entitlements of funds to the providers of services under prior law. Any provision of this kind would run counter to the very purpose of block grants; that is, to allow the States to determine their own priorities and allocate resources accordingly. There is no need to limit the flexibility provided under block grants by mandating where or how any part of the block grant funds should be spent.

In any transition language provision, we would urge the subcommittee to rely on a State's law and practice as to who speaks for the State. We suggest that the transition language in the draft substitute "duly authorized official" as found already in S. 807 in lieu of any singular reference to a chief executive officer.

I hope that these comments are helpful. We would be pleased to respond to any of your questions here, or in writing for the record.

Senator DURENBERGER. Thank you very much for your testimony.

Let me start with the suggestion made earlier this morning by the National League of Cities concerning the compromise of the guaranteed passthrough. They drew an analogy in their testimony on the CDBG program where there was a transition period for those governments that have a multi-year commitment under a categorical. What is your opinion as to the kind of compromise on the passthrough issue that is possible in the boilerplate language?

Mr. FARBER. Mr. Chairman, we clearly understand the concern that has been expressed by the National League of Cities and others who have raised this particular issue. It is a concern we understand because with respect to State governments as well this matter has been relevant in the sense that there certainly have been times in the past when grant programs of one kind or another have had reductions in funds or where programs have been cut off.

It seems to us that there are two fundamental points to be made here. First, flexibility, as Bill has indicated in his testimony, and as we feel strongly as well, is really a crucial element with respect to these block grants. We feel that public participation and consultative processes are extremely important.

They are going to happen, as I indicated, because it makes sense in the context of the political process of each State. That is part of the political reality which exists out in the country, even though sometimes people in Washington have a hard time understanding it or believing it, as the President has suggested.

But it seems to us that the flexibility provisions are crucial and that those, combined with the public participation and the consultative provisions contained in the boilerplate language, do make sense and can get the job done.

Second, as I indicated in my testimony, we are deeply concerned with the fact that the block grant funds not only have been reduced already, but are likely to be reduced in the future still further. As a result, I think it is important for all of us to face up to the fact now that some programs which have been funded in the past are just not going to be funded in the future. That is a mathematical reality, and I think we all have to deal with it. This means, it seems to me, that the political process which remains in the States and in the localities, out in the country, ought to be operative and will be operative, just as it has been in this initial round of block grant planning.

Senator DURENBERGER. Let me just clarify that. You said some programs should not be funded. That can be taken two ways. One, a programmatic response created at the national level to a local level need is going to be terminated. The decision about how to meet those needs will be made by implication at the State level.

Is that a fair way to interpret what you have just said? There is a corollary to that, of course. If we try to build into the block grant system a guarantee that this particular programmatic response in multiyear situations is going to stay there, then we remove from the State, at a time that the State needs it, the capability to find a different response to the need.

Mr. **Farber.** I think, Mr. Chairman, it is clear that in the social services field, for example, with a sharp reduction in funds there are simply going to be some individual centers or individual facilities or individual projects that cannot continue to be funded either at the same level or at all. That process ought to be worked out by States, by local governments, by recipients of services in the context of the public participation process and the consultative process which you have provided for in this legislation.

Senator **Durenberger.** Bill?

Mr. **Holland.** Mr. Chairman, the issue of passthrough is one which could go either way. It might be beneficial for the States to allow passthrough, but that is not good public policy. The fact is someone will have to say "no." To have a required passthrough fund, the requirement for someone to say "no" is eliminated and public policy, as effective public policy, is diminished.

Restrictions would not be good for the implementation of the program.

Senator **Durenberger.** The testimony of the National Association of Regional Councils brought up the problem of the interstate metropolitan regions and how programs are going to be coordinated in these areas after we have devolved responsibilities to the States. How do you think we should handle this coordination problem if block grants become a basic form of Federal assistance?

Mr. **Farber.** With respect to the NARC observations, Mr. Chairman, it seems to us that the public participation and consultative process once again ought to remain. To have mandated strictures of one kind or another with respect to interstate bodies, be it the regional councils or any other kinds of entities, would once again inhibit the flexibility that is the essential ingredient of the block grants. Some of the particular concerns raised by the NARC testimony should be addressed and I believe will be addressed within the framework of the kind of review and planning process that will be ongoing in each of the States in which this is a problem.

Mr. **Holland.** Mr. Chairman, the National Conference of State Legislatures feels that the open public process, which goes on right now in the States already takes into consideration these varied regional planning commissions. That process will continue to serve the needs of these people in the future. We are optimistic.

Senator **Durenberger.** If either of you have any further thoughts on the subject, it would be helpful if you would elaborate on it in writing.

I am aware that OMB has been holding a series of meetings across the country on block grants. These meetings have included the reconciliation procedures. I am curious to know if any strong message has come back to your organizations from that series of meetings. If so, what is it?

Mr. FARBER. It is correct, Mr. Chairman, that these meetings have been held. I am sure that there will be further meetings.

There has been a great deal of concern on the part of the State officials with whom we have been in communication about the rapid pace of this transition.

As you know, when title XX was passed there was a 9-month transition period before the October 1 implementation of that program.

One concern which we expressed during this recent discussion of block grants was that there would be a very limited time for transition. Nonetheless, the State officials with whom we have been working are committed to having the block grants succeed. As a result, as I indicated, although HHS has waived the public hearing process in this initial go-around because of the shortage of time, almost all of the States have as a matter of course engaged in that public hearing process because it is central to their view of how these block grants are going to be able to succeed.

Interestingly, despite the short lead time there has been a massive decision by the States to participate in the block grants.

For example, as of October 1—last week—in the 4 block grants that are operative at this particular time, of the 56 eligible States and territories, our figures show that 42 have assumed the community services block grant; 51, the maternal and child health block grant; 49, the preventive health block grant; and 48, the alcohol, drug abuse, and mental health block grant.

All States were required to pick up the social services and low-income energy block grants. As you know, the primary care block grant will not be eligible for State assumption until a year from now.

The other two block grants are education and the small cities community development block grant.

Education, as you know, is a 1982–83 school year issue. In the CDBG program, on the small cities aspect of that, our estimates now are that 37 States will assume or are leaning toward assumption of that program. I say this, Mr. Chairman, notwithstanding the fact that there has been a real shortage of lead time and a real shortage of information on some crucial questions. I think this reflects the intense desire on the part of State officials to seize the opportunity which the Congress and the administration have created here and to do their best to make it work well.

Mr. HOLLAND. In response to your specific question about the OMB hearings—prior to the hearing in region 5, which includes Chicago, the State of Illinois had already conducted two of its three hearings. We may have been a little bit ahead of the game and a little bit more prepared than what came from Washington on September 5—I believe that was the day. So. we had more useful meetings in Illinois preceding the meeting at the White House. I cannot tell you what the other States thought of that.

Senator DURENBERGER. Steve, I have one last question for you. In your testimony you alluded to a problem with the Federal Advisory Committee Act. What is that problem?

Mr. **Farber**. It is really a problem, Mr. Chairman, of clarity and consistency. We hope that you, Senator Sasser and your colleagues are successful with respect to the Federal Advisory Committee Act exemption for State and local officials.

If that effort is successful, we simply want to make sure, as a drafting matter, that section 114(d) is consistent with it and recognizes that exemption. It is a minor problem, but one that we believe should be looked at to ensure consistency.

Senator **Durenberger**. Thank you both very much for your testimony.

[Mr. Farber's prepared statement, with attachment, follows:]

National Governors' Association

Richard A. Snelling
Governor of Vermont
Chairman

Stephen B. Farber
Executive Director

TESTIMONY OF

STEPHEN B. FARBER

On Behalf Of

THE NATIONAL GOVERNORS' ASSOCIATION

Before The

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Of The

COMMITTEE ON GOVERNMENTAL AFFAIRS
U.S. SENATE
OCTOBER 6, 1981

HALL OF THE STATES • 444 North Capitol Street • Washington, D.C. 20001 • (202) 624-5300

Senator Durenberger, I would like to begin my statement this morning by thanking you for your interest in developing boilerplate language for block grants. A framework of this nature would be helpful in guiding future congressional consideration of block grant legislation and could help recipients administer the new initiatives more effectively. We consider this to be a very important project.

'In accordance with the interest we knew the state officials would have in the boilerplate language, we sent earlier drafts to each state with a request for comments. Many states responded with specific suggestions, which we have shared with your staff.

We have not had a chance to mail the most recent draft to the states. We will do so as soon as we have the complete language and will again pass on to you the comments we receive. I hope you will treat my testimony today as our preliminary reaction which may be augmented as we consult further with state governments.

In reading the draft language myself, I can tell you that there is much in it that we strongly support. The application and coordination provisions are clear and concise. They guarantee full public participation in the decision-making process without establishing a burdensome process or an intrusive federal role. The transition provisions are also clear and provide states with leadtime where it is needed to ensure wise decisions. The audit section incorporates many of the reforms on which we have worked jointly and is particularly helpful in that it gives recipients the authority to use existing practices to arrange for audits and to use audits performed for other purposes to satisfy the block grant requirement. The regulatory provisions assure adequate consultation between the federal government and recipients on block grant regulations and protect recipients from arbitrary federal administrative decisions.

Without engaging in a lengthy technical discussion on the language, there are a few points I wanted to cover which I hope will be helpful to you. They are as follows:

- Sections 103(g), 114(g), which circumscribe the authority of federal agencies to devise administrative restrictions on recipients, are vital elements of the boilerplate language.

As a member of ACIR, you are well aware of the frustrations faced by state and local officials because of arbitrary federal administrative rulings or, worse yet, because of inability to obtain a timely federal decision on a procedural question.

It is imperative that the block grants--with their underlying purpose of cutting red tape and placing decision-making authority outside Washington--be as free from these frustrations as possible. Yet, we know that they are not. One state official told of an incident regarding the required statement of intent to assume a block grant. The state--located in the West--believed that the letters needed only to be postmarked by October 1 in order to be valid. At the last minute, he was told that the letter had to be in Washington by that date and had to make hasty arrangements to meet the federal "requirement." Sections 103(g) and 114(g) would help to eliminate the needless friction created over such minor issues.

- The question of administrative costs needs to be studied further.

To my knowledge the 10% limit on administrative costs in Section 109(b) would not create a major problem for state agencies. I will be checking further, however, to make certain.

Another aspect of this issue, the practice of federal agencies charging administrative costs to the block grants during transition, should be reviewed carefully by the Subcommittee for possible future action. Federal policy in this area has not yet been clarified, and as we gain some experience, statutory limits or other congressional action may well be appropriate.

- There should be no restrictions on the flexibility of recipients in the use of block grant funds.

Earlier drafts of the block grant language contained a requirement that states pass through block grant funds to local units of governments that had received funds in the past. This requirement is antithetical to a block grant, which is designed precisely to provide flexibility and an opportunity to experiment with new ways of doing things. It would lead to countless aberrations, such as continuation of discretionary pilot projects. If state and local consultation is inadequate for the purposes of the block grants (and I am not prepared to say that it is), then the public participation requirements now included in your proposed language guarantee that a dialogue between state and local officials will take place.

Let's look at some of the facts relevant to state-local relations.

-- At the federal level, direct aid to local government rose from about $2.2 billion in 1965 to about $19.4 billion in 1978, a phenomenal increase of 782%. At the state level, spending to meet local needs grew from $20.9 billion in 1965 to $86.6 billion in 1978, an increase of 319%. This reflects only state-raised revenues and does not include billions more in federal aid that states routinely pass through to local governments each year. Thus, while the growth in direct federal-to-local aid, starting from a lower base, has been more dramatic, it is still substantially less than what states spend from their own resources on behalf of their communities.

-- Virtually all of the federal aid, and most of the state aid, is in the form of grants. But states have also helped cities in more flexible ways than are available to the federal government--ways that are not visible and as easy to measure as grants but that may have a more beneficial impact, in the long run, on the neediest communities. The states have steadily removed service responsibilities--such as welfare and education costs for example--from the local tax base. Whereas fifteen years ago, local governments financed about 55% of the cost of state-local services and states financed 45%, today those proportions are more than reversed, with states carrying 57% of the load.

-- In 1978, state revenue sharing programs with local governments amounted to $ 6.8 billion, as compared with $4.6 billion in federal-local revenue sharing funds.

The state initiatives I have listed are the product of a long-standing relationship between the local governments and the states. They grow out of negotiations and meetings held between state and local officials over a long period--like the four described in the Governors' Bulletin excerpt I am submitting for the record of these hearings. They are rarely discussed by local officials in Washington, but they are a basic fact of the political climate back home.

Let me conclude my discussion of this topic by acknowledging that no government in this country, including the one headquartered in Washington, has done enough to deal with poverty and the related problems of this nation. But let me add that both the federal government and the states have made tremendous efforts in the last twenty years--efforts that have strained the outer limits of our resources, both fiscal and political. We in government may not like being at those outer limits and we may agree that there are serious problems yet to be solved, but I suspect that we all recognize that is indeed where we are.

Bumping against these limits has created tension between the federal government and the states, between the states and the cities, and between citizens and government at all levels. I hope we can resolve to make it a creative tension, one which leads us to develop new, flexible relationships to deliver services.

Replacing existing inflexible requirements with new inflexible requirements, such as the pass-through mandate, will not help us develop these relationships. Forums such as the block grant public hearings, state and federal Advisory Commissions on Intergovernmental Relations, and the new NGA Committee on State-Local Relations will help to forge the necessary coalitions.

o Transfers between block grants should be provided for. The Administration's original consolidation proposals permitted transfer of 10% of funds among the various block grants. This Subcommittee has authorized even broader transfer authority in S.807 through the "portability" provision. Consistent with the flexibility theme of the block grants, we propose that transfers of at least 10% be permitted among block grants as part of the boilerplate language you are preparing.

o The requirements in Section 114 for consultation of federal officials with potential recipients prior to promulgation of regulations are needed, but perhaps drafting should take into account the changes that the Governmental Affairs Committee is proposing for the Federal Advisory Committee Act, (FACA).

Section 114(d) exempts the rule-writing process from coverage by FACA. What complications might arise with the language as currently drafted if, as we hope, the Committee amendment to S.1080, (the regulatory reform bill), is adopted? I would appreciate it if you would ask Committee Staff to ensure that no problems would be created by Section 114(d).

Incidentally, I would like to take this opportunity to thank you for your efforts regarding the FACA exemption for state officials and look forward to working with you toward final, successful resolution of the problem.

Mr. Chairman, this concludes my statement on the boilerplate block grant language. We greatly appreciate your interest in improving the federal-state-local partnership through better block grants and increased flexibility. In closing, I wish to reiterate that we will be back in touch with you to transmit any comments from NGA members on this draft language and on the overall implementation of the block grants enacted by the 97th Congress, as state experience with them permits us to draw conclusions useful for the development of boilerplate lanaguage.

Thank you.

GOVERNORS' BULLETIN
JUNE 5, 1981

THE MAYORS AND THE GOVERNORS: ALL'S WELL THAT ENDS WELL

Philadelphia, May 5 – Gov. Dick Thornburgh came to the rescue of the financially troubled Philadelphia School District today, promising to speed up the schedule of state-aid payments enough to prevent a paralysis of the city's educational system and to allow 13,000 high school seniors to graduate on schedule. Without the stepped-up state aid, school officials had warned, the district would not have been able to meet a $25 million payroll that is due Friday....However, he tied his action to the city Board of Education's acceptance of demands for an audit of its fiscal condition and practices. The funds would be advanced, as needed by the system, from a total of $82.9 million in state subsidies that are due by June 1....

Mr. Thornburgh, a Republican, met yesterday with Mayor William J. Green, a Democrat, who had asked the Governor to require financial and management reforms before meeting the school board's needs....The temporary solution here follows the pattern of one provided for Chicago schools last year, when Gov. James R. Thompson, Jr., advanced state-aid funds to ease a cash crisis....One of the problems (in the Philadelphia situation) has been lagging contributions from local tax revenues. Since 1975, when the city provided two-thirds of the school system's budget and the state contributed one-third, the proportions of state and local contributions have been reversed....Endorsing the Governor's action, Mayor Green said today, "The joint city-state audit can be an important first step toward identifying ways of achieving management improvement." – The New York Times, May 6, 1981.

Lansing, June 4 – ....(Gov. William) Milliken has met this week with out-state Republican lawmakers to pursuade them to support a nonresident tax increase tied to wage concessions. The governor has warned that if the legislature does not grant Detroit the authority to ask voters to raise the nonresident tax...he will propose a program of aid to distressed cities financed by the state's general fund. He estimated that of the money for such a project, more than $40 million would go to Detroit. A jubilant Mayor Young called the conference committee action "an important first step. "....We got this big one out of the way and now are a long way toward home, "Young said. – Excerpted from a June 4 Detroit Free Press story on a Michigan legislature conference committee's approval of a self-help program for Detroit.

Albany, May 18 – Governor Carey and Mayor Koch said today that they had "reluctantly come to the conclusion" that the growing deficits of the (New York City) Metropolitan Transportation Authority would require a new regional tax to stave off sharp service cuts of major fare increases....Mr. Carey, who had formerly opposed a new transit tax this year, said he had changed his position because of the "worsening condition" of the Transportation Authority's finances. The chairman of the authority, Richard Ravitch, had warned last week that a $1 fare would be needed this year without additional subsidies from the state. – New York Times, May 19, 1981.

Nashville, June 3 – Increases in state gasoline and diesel fuel taxes will produce an additional $538,018 for metropolitan Nashville, Gov. Lamar Alexander said today. The tax increases, effective June 1, will be shared with local governments across the state. Transportation officials estimate that the motor fuel taxes will provide $2.341 million in fiscal years 1981 and 1982 for Nashville's transportation needs. "That's a 30 percent increase in the funds metropolitan Nashville will have available from increased fuel taxes to fill up potholes and improve streets," Alexander noted. "Some of this money can be used for mass transit if local governments choose this option." (Press release, Governor's office).

Senator DURENBERGER. Our last panel represents those groups which contributed a great deal to the drafting of the audit section of our boilerplate language—the Municipal Finance Officers Association and the National Association of State Auditors. Appearing on behalf of those groups are Donald W. Beatty, executive director, Municipal Finance Officers Association; and Charles Trible, auditor of public accounts, State of Virginia.

Gentlemen, we are pleased you are able to appear with us today. You may proceed with your testimony in the order that I introduced you.

TESTIMONY OF DONALD W. BEATTY, EXECUTIVE DIRECTOR, MUNICIPAL FINANCE OFFICERS ASSOCIATION; AND CHARLES TRIBLE, AUDITOR OF PUBLIC ACCOUNTS, STATE OF VIRGINIA, ON BEHALF OF THE NATIONAL ASSOCIATION OF STATE AUDITORS

Mr. BEATTY. Thank you, Mr. Chairman.

We appreciate the opportunity to testify today. We have had a lot of input into the drafting of this particular subject.

In order to avoid duplicating the other testimony which you will hear today, and to focus on an area of MFOA expertise, I will limit my comments to the audit provisions of block grants.

MFOA supports efforts to streamline and simplify the Federal grants-in-aid system. As the financial managers for our Nation's States, counties and cities, we must comply with overlapping and duplicative Federal requirements on a day-to-day basis. Efforts to reduce red tape and relieve us of administrative burdens also promise to ease the burden on local taxpayers. It is in this spirit that the members of our association adopted, at our most recent annual business meeting, a resolution on grant reform legislation. While there has been a general agreement among Federal, State and local officials concerning the establishment of single audits, successful implementation of this concept has not occurred. This subcommittee has endorsed the single audit and has included an audit title in each of the grant reform bills adopted in the Governmental Affairs Committee over the past few years. I, again, want to thank you and the other members of the subcommittee and committee for your leadership in this area.

The Municipal Finance Officers Association is hopeful that members of this subcommittee and the Governmental Affairs Committee will push for speedy passage of a single audit bill. We recognize that the grant reform bill (S. 807) has become controversial in the U.S. Senate and in the House of Representatives. Senator Durenberger, we hope that you will consider separating the audit title from the omnibus grant reform bill and then work toward the passage of a single audit bill in the Senate. Congressman Erlenborn of Illinois has already introduced H.R. 4133 in the House of Representatives which includes language similar to title II of S. 807.

With a concentrated effort, both the Senate and the House may be able to agree to a single audit bill. In our opinion, the best way to secure passage of Federal legislation implementing the single audit concept is to push for legislation which focuses on this one subject alone.

Once the U.S. Congress approves legislation implementing the single audit concept, then we will not need to focus on separate audit language for each new Federal program—either block or categorical—which Congress creates. Your committee language which accompanies S. 807 demonstrates the importance of implementing a single audit. The report states:

> The title is intended to reduce the many seemingly endless audits of grant recipients. Currently, each Federal agency has the responsibility of auditing assistance recipients to ensure that Federal requirements are being met and to determine the financial status of Federal programs. Unfortunately, each agency audits only its own programs and, frequently, audits are not scheduled so as to reduce the burden on recipients * * * the Title specifically shifts the emphasis of current practice from audits conducted on a grant-by-grant basis to audits performed on an organization-wide scale.

If single audits are to be effective, they must be supported by clear and understandable, enabling legislation. Inconsistent or ambiguous legislative requirements will limit the efficiency of single audits. It is important that you carefully coordinate the language of any audit title included in individual bills affecting the Federal grants-in-aid system.

In this regard, it is unfortunate that the language of the audit section in the Omnibus Budget Reconciliation Act of 1981 was not more closely coordinated with the language of the audit title of S. 807.

It is, indeed, ironic that as a part of legislation to consolidate categorical assistance and reduce Federal paperwork and administrative requirements, we, again, adopted tailormade audit language in the budget reconciliation bill. It is my understanding that block grants and single audits are both designed to reduce unnecessary red tape and federally imposed burdens on State and local governments.

MFOA urges you to carefully consider the consequences of creating further inconsistencies through the audit title in your proposed block grant legislation.

The MFOA staff has examined the draft language which has been prepared by the subcommittee staff. To a certain extent some of our suggestions have already been included in the latest draft. I will now highlight some additional recommendations which the MFOA is submitting to the subcommittee. The MFOA draft of the audit section incorporates all of our suggestions in the form of legislative language.[1]

The subcommittee staff has recognized the need to allow audits which are performed for purposes other than meeting the requirements of a block grant to be substituted for this specific requirement.

MFOA feels that if a State or local government has performed an acceptable single audit which is in accordance with the financial and compliance element of the "Standards for the Audit of Governmental Organizations, Programs, Activities, and Functions," that such an audit should be allowed to meet the requirements of any block grant audit requirement. This subcommittee should be careful not to create additional audit requirements for local governments if other acceptable and appropriate audits can be substituted.

The latest draft of "boilerplate" language has deleted all reference to subrecipients in the audit title. We think that this deletion is a mistake.

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[1] See p. 120.

Since some or all the block grant funds distributed to State governments may be passed through to local governments, this language could unintentionally impose duplicative audit requirements on local governments.

On the one hand, we agree that block grant audit legislation should not impose additional requirements on those State governments which are already performing acceptable audits; but on the other hand, this language does not provide similar protections for local governments.

In addition to complying with relevant State and local laws, this block grant audit language should not create an additional audit requirement on local governments which are already preparing acceptable audits. A local government which has complied with all relevant laws and regulations and has produced an acceptable financial and compliance audit should not be required to subject itself to another audit simply because of the existence of this audit language.

The language, which is presently included in 110(c), states that audits "shall be conducted by independent auditors which are properly constituted governmental agencies, or public accountants as defined in the Comptroller General's standards." This requirement will establish that those accountants who are recognized by the Comptroller General as qualified to conduct State and local audits will also be allowed to perform the block grant audits.

In light of this requirement, I do not think it is necessary for the Office of Management and Budget to establish a so-called quality review process. In my opinion, such a quality review process would only be another burdensome Federal requirement which would impose unnecessary expense on Federal, State, and local governments. If you accept this recommendation, then you do not need to provide reimbursement for such a quality review process.

We recommend deleting the proposed language in section 110(d) and substituting in its place the last section which appears in 110(c). We cannot support the establishment of a quality review process which has not been defined.

The success of the audit requirements will depend, in large part, on timely direct Federal reimbursement to State and local governments for those portions of the cost of single audits which are incurred on behalf of the Federal Government. This legislation should provide for such timely direct reimbursements.

Auditing performed to meet the requirements of this bill should be conducted in accordance with generally accepted auditing standards (GAAS). Generally accepted auditing standards for governments have been published by the Comptroller General of the United States in a publication, "Standards for the Audit of Governmental Organizations, Programs, Activities, and Functions." This publication should be correctly referred to in the boilerplate language.

The report language accompanying this title of the bill should specify whether the 2-year audit cited in section 110(b) is for one or both of the years in a 2-year period. Our organization has been encouraging State and local governments on a voluntary basis to conduct annual audits.

Federal agencies should be required to rely on audits conducted according to generally accepted auditing standards and should only conduct additional audit work after justifying a need to the Comptroller General.

If Federal agencies justify a need for additional audit work, such work should build upon, rather than duplicate, the audit work which has already been performed by an independent State or local auditor.

Senator Durenberger, I appreciate very much that you have directed the Subcommittee on Intergovernmental Relations to hold a hearing on standard provisions for block grant programs. Members of our organization who reviewed the audit language adopted in the Omnibus Budget Reconciliation Act of 1981 were dismayed that yet another new audit wheel was created.

We hope that, if this subcommittee can come to agreement on standard block grant provisions, you will give serious consideration to amending the Omnibus Budget Reconciliation Act.

Again, I must encourage you to engage in efforts to bring about the single audit concept so we do not have to face the constant creation of tailormade audits for each new Federal program.

I have with my testimony an MFOA draft of the audit section, and we hope that your staff will give serious consideration to adopting these suggestions.

Thank you for providing me with the opportunity to testify.

Senator **Durenberger**. Thank you very much.

I apologize for leaving. For those of you who have been here all morning, the State Department reported that at about 11:30 a.m. President Sadat was shot twice in the stomach and was undergoing an operation. They do not believe the wounds were serious, but they could not confirm it. They apparently had been in touch with our Ambassador by phone and the State Department reported that Sadat might be leaving the hospital shortly to return to his residence. The Vice President was reportedly wounded more seriously.

Mr. Trible?

Mr. **Trible**. Mr. Chairman, I am here today to represent Mr. Frank Greathouse, president of the National State Auditors Association, and Mr. Joseph Burris, president of the National Association of State Auditors, Comptrollers and Treasurers. I will present the views of these two organizations.

With me is Leonard Greess, the State representative to the two organizations. He has been working closely with your staff regarding this legislation.

While preparing for this testimony, we decided it may be useful to present a set of principles or criteria for grant audit legislation against which all proposals, not only the one under consideration, could be measured. We believe that we have successfully developed such criteria. Our prepared testimony contains our considered judgment, both professionally and from the standpoint of practical intergovernmental cooperation, as to the elements which should be included in any such legislation.

As a group, State auditors are critically affected by several bills in Congress which deal with audits and Federal grants-in-aid. We are probably the group most directly affected at the present time by any requirement for audits of block grants. As such, we commend the chairman, the subcommittee and the staff for its understanding of the problems involved and for carefully reviewing both S. 807 and the language being considered here today.

In our opinion, both would provide the totally professional audit efforts in contributing to the necessary accountability and fiscal integrity. Both also recognize the desirability of the intergovernmental reliance once the professional competence of performing audit organizations has been established.

Accordingly, I accept your offer to submit our statement and attachments for the record. I will spend just a few minutes in highlighting several points.

We believe that simplified standardized audit language is urgently needed. It is as important that Federal auditor involvement in the details of State audit planning and execution be restrained as it is. The Federal involvement in program management should be limited. This point we believe should be made in the subcommittee report.

It is our belief that audits performed by State auditors of State government programs and functions, including those performed on behalf of another government, should be accepted by all interested parties, as long as those audits follow generally accepted governmental audit standards as established by the Comptroller General of the United States.

We understand that audits by State governments would not preclude other audits on behalf of the Federal Government. However, we ask that the subcommittee report indicate your intent that, one, such audits be undertaken only when it can be clearly shown that the interest of the Federal Government has not been adequately protected; and two, that such audits not duplicate work already performed adequately.

With respect to audit standards, audits must be performed in keeping with recognized professional standards if they are to be reliable.

With respect to the professional system, further audits must be performed by qualified persons whose ability to meet generally accepted auditing standards is publicly recognized. This point was made by the Comptroller General when he published generally accepted governmental audit standards in 1972, and it is basic to the establishment of the credibility in the audit process.

We suggest that the block grant language provide for audits by properly constituted government audit agencies or public accountants. We also suggest that the Comptroller's definition of qualified public accountants, including the standards, be adopted.

We have cosponsored a project to establish a process for evaluating an audit agency's capability to perform audits in keeping with professional standards. We support any requirement that such an evaluation of organizations undertaking audits include coverage of Federal grants.

With respect to responsibility and cost, cost is perhaps the issue about which we are most concerned. These two issues are so interrelated, though, that we feel they should be considered jointly rather than separately.

A number of alternatives are available. Without going into the details of the alternatives which are included in our prepared testimony, let me say that we are supporters of intergovernmental audit cooperation and fully subscribe to, and have been promoting, the concept of a single audit to satisfy the needs of all parties. At the same time, we believe in the sovereignty of the States and in the concept of true partnership.

Therefore, while all three of the options would be acceptable given adequate reimbursement language, we prefer the third alternative. It provides an opportunity for the States to affirmatively demonstrate their responsibility and concern for accountability to government programs. It would also minimize the cost to the Federal Government.

We recommend language that permits the use of existing State laws, policies and regulations in accomplishing or arranging for specified audits. Since the process for Federal reimbursement of audit cost has been the cause of considerable difficulty in the past, we urge that the legislation be perfectly clear that the cost of audit must, one, be identified, and two, be made directly from the grant.

With respect to acceptance by the Federal grantor agency, one of the problems which has been particularly bothersome in the past to State auditors who performed audits on behalf of Federal grants to agencies has been the need to meet the differing criteria of the several Federal agencies reviewing the audits. This problem could well be perpetuated in each department administering a block grant that has the authority to accept or reject an audit.

The problem would be particularly acute where a report on the single audit of the State government, or an entity of the State government, was submitted in satisfaction of requirements in more than one block grant law. We recommend that the proposed standard audit language for block grant legislation provide for the designation of one Federal grantor to act on behalf of all, accepting a single audit report authorizing payment therefor. We would recommend that this be covered in your report.

Finally, we believe it is highly desirable that there be one source for all audits of Federal grants-in-aid, blocks as well as categorical grants, et cetera, to preclude a repetition of the confusion resulting from the recent enactment of the Omnibus Reconciliation Act. We believe concerted effort should be made to bring about passage of the audit provisions of either S. 807 which was reported last spring or H.R. 4133. These bills call for a single audit of a recipient of Federal grants to satisfy the needs of all Federal granting agencies.

Passage of either bill would eliminate the need for audit language in individual grants-in-aid bills. Until such time as the universal audit provision is passed. uniform language applicable to block grants is preferable to the repetition of multiplicity of provisions arising out of the recent enactment of the Budget Reconciliation Act.

We are in substantial agreement with this subcommittee's proposals and have provided specific suggestions for a few changes.

In addition, we urge the subcommittee to introduce amendments to, one, several audit provisions in the Budget Reconciliation Act, and two, any new block grant bill which does not include the audit language being discussed here today.

It has been a privilege to appear before you on behalf of the National State Auditors Association and the National Association of

State Auditors, Comptrollers and Treasurers. We look forward to your continued leadership in these efforts.

Thank you.

Senator DURENBERGER. Thank you very much.

Let me ask you a question which both of you covered to a degree in your statements. How do you think we should handle the recipient problem? Is it possible to rely on audits of the recipients—in general, the States—for the Federal purpose without imposing new audit requirements on the subrecipients? Or, is the financial integrity of the subrecipients necessarily an issue in the integrity of the use in block grant funds?

Mr. TRIBLE. The question has several issues involved. I cannot speak with respect to the situation in every State. In Virginia, all units of local government and all counties and cities have an annual audit. The single audit concept proposed would satisfy Virginia's needs for an audit which would pass through the block grant. The situation may not be the same in other States. Annual audits are not always required.

With respect to the recognition of a subrecipient in the bill itself, the State auditors' position is that it is not necessary. On the other hand, we can well understand the MFOA's concern for the possibility that some States may attempt to impose additional audit requirements on subrecipients. We have presented to your staff an amendment which would, we believe, take care of MFOA's concerns in that regard.

Senator DURENBERGER. Mr. Beatty?

Mr. BEATTY. I think it is true. I think it is not necessarily limited to MFOA. I think, however, the issue is limited to local governments, particularly counties and cities. We are concerned that there is not necessarily uniformity among States with regard to auditing practices and the acceptance of generally accepted audit standards.

Consequently, we would not like to have to face two sets of standards with regard to the auditing and have a duplicate effort in that sense. We would like to see if we can develop uniformity here.

This single audit concept gives us the opportunity to do that, as well as any legislation which reflects the concept itself.

Senator DURENBERGER. I am not familiar with the auditors' amendment. Is it possible to require that the recipient, meaning the State, accept a single audit result from subrecipients?

Mr. TRIBLE. Yes, sir, that is certainly satisfactory.

Senator DURENBERGER. Would each of you comment on the progress that is, or is not, being made toward using the so-called Yellow Book? This book is published by GAO as a standard for the auditing of State and local governments who receive Federal assistance.

Mr. TRIBLE. From my standpoint in the Commonwealth of Virginia—I think it is pretty true nationwide—we certainly support the Yellow Book standard. The latest edition issued in 1981 is a little broader than the previous edition issued in 1972.

Because of some questions regarding the interpretation of some of the provisions in Virginia, I do not believe many States have moved very rapidly to adopt the 1981 standards. In my own shop, we intend to do so once the issues relating to the interpretation of some of the provisions are resolved. We believe that will occur in the next 6 months.

Mr. **Beatty.** I think that we are seeing progress. It is hard to actually define how much progress. You must be mindful that the so-called Yellow Book does contain both financial compliance and performance standards. In the areas of financial standards, we find that they are being used and are acceptable in many State and local governments these days and that there is a strong acceptance of those. We are trying to implement them wherever possible.

Senator **Durenberger.** I want to thank you both for your testimony. With respect to the subcommittee and the full committee, auditing is the most difficult part of this whole subject. You know that a lot better than anyone else does. I want to thank you and your associations for your patience in working with our staff so that we can understand it almost as well as you. Hopefully, we will end up with a consensus.

Thank you very much for your testimony today.

Mr. **Beatty.** Thank you, sir.

[Mr. Trible's prepared statement, with attachments, and the MFOA policy statement and draft of audit section submitted by Mr. Beatty follow:]

STATEMENT OF
CHARLES K. TRIBLE
REPRESENTING THE
NATIONAL STATE AUDITORS ASSOCIATION
AND
NATIONAL ASSOCIATION OF STATE AUDITORS, COMPTROLLERS, AND TREASUERS

BEFORE THE
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

OCTOBER 6, 1981

HEARINGS ON
MODEL BLOCK GRANT LEGISLATION

I AM CHARLES K. TRIBLE, AUDITOR OF PUBLIC ACCOUNTS OF THE COMMONWEALTH OF VIRGINIA.

I ASK YOUR PERMISSION TO SUBMIT FOR THE RECORD A POLICY STATEMENT ADOPTED BY THE NATIONAL CONFERENCE OF STATE LEGISLATURES AT ITS ANNUAL MEETING IN ATLANTA THIS PAST JULY, AND A RESOLUTION ADOPTED BY NASACT AT ITS RECENT ANNUAL CONVENTION IN CHICAGO IN AUGUST.

MR. CHARIMAN AND COMMITTEE MEMBERS:
THE STATE AUDITOR COMMUNITY THAT I REPRESENT IS PLEASED THAT THIS COMMITTEE HAS SEEN FIT TO HOLD HEARINGS ON THE SUBJECT OF BLOCK GRANT STANDARD LANGUAGE. WE APPRECIATE THE OPPORTUNITY TO APPEAR TODAY TO PRESENT OUR OPINIONS ON AUDIT RELATED MATTERS IN BLOCK GRANT LEGISLATION. I KNOW THERE ARE MANY WHO WOULD JOIN ME IN VOICING A STRONG PLEA TO ELIMINATE THE CONFUSION CAUSED BY THE VARIED AUDIT LANGUAGE IN THE BLOCK GRANT LEGISLATION ENACTED BY THE CONGRESS AS PART OF THE OMNIBUS RECONCILIATION ACT OF 1981.

I AM HERE TODAY AT THE REQUEST OF MR. FRANK GREATHOUSE, PRESIDENT OF THE NATIONAL STATE AUDITORS ASSOCIATION (NSAA) AND MR. JOSEPH BURRIS, PRESIDENT OF THE NATIONAL ASSOCIATION OF STATE AUDITORS, COMPTROLLERS, AND TREASURERS (NASACT), TO PRESENT THE VIEWS OF THOSE TWO ORGANIZATIONS.

STATE POST AUDIT RESPONSIBILITIES

THE POST AUDIT FUNCTION IN STATE GOVERNMENT IS EITHER STATUTORY OR CONSITUTIONAL, AND IS GENERALLY COMPARABLE TO THE ROLE AND AUTHORITY OF THE COMPTROLLER GENERAL OF THE UNITED STATES AND THE GENERAL ACCOUNTING OFFICE. STATE AUDIT ORGANIZATIONS HAVE THE RESPONSIBILITY FOR AUDIT AND/OR PROGRAM EVALUATIONS OF THE DEPARTMENTS, AGENCIES, AND INSTITUTIONS OF ENTIRE STATE GOVERNMENTS AS DISTINGUISHED FROM THE INTERNAL AUDIT OF A SINGLE STATE AGENCY. IN MANY INSTANCES, THE AUTHORITY AND THE RESPONSIBILITY OF STATE AUDIT OFFICIALS ALSO INCLUDES THE AUDIT OF LOCAL GOVERNMENTS.

AS AN IMPORTANT COMPONENT OF THE MANAGEMENT AND OVERSIGHT SYSTEMS OF STATE GOVERNMENTS, STATE AUDITORS, ALONG WITH OUR STATE COLLEAGUES IN OTHER FISCAL FUNCTIONS, HAVE WORKED TO BRING GREATER RATIONALITY TO NOT ONLY THE AUDIT FUNCTION, BUT TO THE ENTIRE GOVERNMENTAL FISCAL SYSTEM. THEREFORE, LET ME AGAIN SAY THAT WE ARE VERY PLEASED TO HAVE THIS OPPORTUNITY TO EXPRESS OUR STRONG SUPPORT FOR IMPROVEMENTS IN FEDERAL GRANT POLICIES, SYSTEMS, AND PROCEDURES.

THE ROLE OF THE NATIONAL STATE AUDITORS ASSOCIATION

THE NATIONAL STATE AUDITORS ASSOCIATION IS A CONSTITUENT ELEMENT AND INTEGRAL PART OF THE NATIONAL ASSOCIATION OF STATE AUDITORS, COMPTROLLERS, AND TREASURERS, AN ORGANIZATION THAT REPRESENTS THE STATE FISCAL COMMUNITY. THE NSAA IS ALSO AN INDEPENDENT ORGANIZATION THAT COORDINATES THE POST AUDIT AND PROGRAM EVALUATION FUNCTIONS OF THE FIFTY STATES. RECENTLY NSAA FOUND IT USEFUL TO EXPAND ITS ROLE TO REPRESENT STATE AUDITORS AS THEY REACT TO THE FEDERAL LEGISLATIVE AND REGULATORY PROCESSES.

GENERAL COMMENTS ON BLOCK GRANT LEGISLATIVE LANGUAGE

ALL ACROSS THE COUNTRY PEOPLE ARE REALIZING THAT GOVERNMENT IS ONE OF THE VILLIANS IN THE INFLATION MELODRAMA. THEY ARE DEMANDING THAT THE FISCAL HOUSE BE PUT IN ORDER, BUT THAT PROGRAMS VITAL TO THEIR PARTICULAR INTERESTS NOT BE CUT BACK. NO ONE WANTS TO KILL THE FEDERAL GOOSE THAT LAYS THE GOLDEN GRANTS, BUT THEY SURE WANT THEIR SHARE OF THE FEED BILL CUT.

ONE WAY TO ACHIEVE THAT OBJECTIVE IS TO RID THE GOVERNMENT OF DUPLICATIVE AND OVERLAPPING PROGRAMS AND LAYERS OF ADMINISTRATION. BLOCK GRANTS ARE A GIANT STEP IN THE RIGHT DIRECTION.

ANOTHER WAY TO CUT COSTS IS TO CONTROL THE INCIDENCE OF FRAUD, WASTE, AND ABUSE IN ALL GOVERNMENT PROGRAMS AND ACTIVITIES. THIS IS A MAJOR CHALLENGE FACING GOVERNMENT MANAGERS AT ALL LEVELS OF GOVERNMENT. THE ENTIRE STATE FISCAL COMMUNITY, AND IN PARTICULAR THE STATE AUDITOR COMMUNITY, IS PREPARED TO COOPERATE IN SUCCESSFULLY MEETING THE CHALLENGE. IT IS IN THIS SPIRIT THAT WE SUBMIT THE FOLLOWING SUGGESTIONS.

COMMENTS ON BLOCK GRANT AUDIT LANGUAGE

WE BELIEVE THAT SIMPLIFIED, STANDARDIZED AUDIT LANGUAGE IS URGENTLY NEEDED. IT IS AS IMPORTANT THAT FEDERAL AUDITOR INVOLVEMENT IN THE DETAILS OF STATE AUDIT PLANNING AND EXECUTION BE RESTRAINED AS IT IS THAT FEDERAL INVOLVEMENT IN PROGRAM MANAGEMENT BE LIMITED. IT IS OUR BELIEF THAT AUDITS PERFORMED BY STATE AUDITORS OF PROGRAMS AND FUNCTIONS OF STATE GOVERNMENT (INCLUDING THOSE PERFORMED ON BEHALF OF ANOTHER GOVERNMENT) SHOULD BE ACCEPTED BY ALL INVOLVED OR INTERESTED PARTIES SO LONG AS THOSE AUDITS FOLLOW GENERALLY ACCEPTED GOVERNMENTAL AUDIT STANDARDS AS ESTABLISHED BY THE COMPTROLLER GENERAL OF THE UNITED STATES. WE UNDERSTAND THAT AUDITS BY STATE GOVERNMENTS WOULD NOT PRECLUDE OTHER AUDITS ON BEHALF OF THE FEDERAL GOVERNMENT. HOWEVER, WE ASK THAT THE COMMITTEE REPORT INDICATE YOUR INTENT THAT (1) SUCH AUDITS BE UNDERTAKEN ONLY WHEN IT CAN BE CLEARLY SHOWN THAT THE INTERESTS OF THE FEDERAL GOVERNMENT HAVE NOT BEEN ADEQUATELY PROTECTED, AND (2) THAT SUCH AUDITS NOT DUPLICATE WORK ALREADY PERFORMED ADEQUATELY. THE FOLLOWING RECOMMENDATIONS DERIVED FROM THE COLLECTIVE EXPERIENCES OF OUR MEMBERS ARE SUBMITTED FOR YOUR CONSIDERATION.

STANDARDS - AUDITS MUST BE PERFORMED IN KEEPING WITH RECOGNIZED PROFESSIONAL STANDARDS IF THEY ARE TO BE RELIED UPON WITHOUT RESERVATION. SUCH STANDARDS HAVE BEEN PUBLISHED BY THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS AND HAVE BEEN CONSIDERED TO BE GENERALLY ACCEPTED AUDITING STANDARDS (GAAS) FOR MANY YEARS. WITH THE PUBLICATION OF STANDARDS FOR AUDITS OF GOVERNMENTAL ORGANIZATIONS, PROGRAMS, ACTIVITIES, AND FUNCTIONS BY THE COMPTROLLER GENERAL OF THE UNITED STATES IN 1972, THERE ARE NOW GENERALLY ACCEPTED GOVERNMENTAL AUDITING STANDARDS (GAGAS). WHILE THE STATE AUDITOR COMMUNITY STRONGLY SUPPORTS GAGAS, WE WANT TO POINT OUT THAT GAGAS IMPOSES REQUIREMENTS BEYOND THOSE IN GAAS, THAT THERE ARE COSTS ASSOCIATED WITH MEETING THOSE ADDITIONAL REQUIREMENTS, AND THAT AT THE PRESENT TIME, STATE GOVERNMENT IS UNDER NO OBLIGATION TO HAVE ITS AUDITS MEET GAGAS EXCEPT TO MEET FEDERAL MANDATES. DUE CONSIDERATION SHOULD BE GIVEN TO THE ADDED COSTS BEFORE SPECIFYING WHICH OF THESE TWO STANDARDS MUST BE MET.

PROFESSIONALISM - AUDITS MUST BE PERFORMED BY QUALIFIED PERSONS WHOSE ABILITY TO MEET GENERALLY ACCEPTED AUDITING STANDARDS IS PUBLICLY RECOGNIZED. THIS POINT WAS MADE BY THE COMPTROLLER GENERAL WHEN HE PUBLISHED GAGAS IN 1972, AND IS BASIC TO THE ESTABLISHMENT OF CONFIDENCE AND CREDIBILITY IN THE AUDIT PROCESS. WE SUGGEST THAT THE BLOCK GRANT LANGUAGE PROVIDE FOR AUDITS BY PROPERLY CONSTITUTED GOVERNMENT AUDIT AGENCIES OR PUBLIC ACCOUNTANTS, AND THAT THE COMPTROLLER GENERAL'S DEFINITION OF QUALIFIED PUBLIC ACCOUNTS INCLUDED IN THE STANDARDS BE ADOPTED.

WE HAVE CO-SPONSORED A PROJECT TO ESTABLISH A PROCESS FOR EVALUATING AN AUDIT AGENCY'S CAPABILITY TO PERFORM AUDITS IN KEEPING WITH PROFESSIONAL STANDARDS. WE SUPPORT ANY REQUIREMENT FOR SUCH AN EVALUATION OF ORGANIZATIONS UNDERTAKING AUDITS THAT INCLUDE COVERAGE OF FEDERAL GRANTS.

SCOPE OF AUDIT - WE BELIEVE THAT A "FINANCIAL AND COMPLIANCE AUDIT" AS DEFINED IN THE COMPTROLLER GENERAL'S STANDARDS PROVIDES SUFFICIENT ASSURANCE OF ACCOUNTABILITY. WE BELIEVE THAT ANY FURTHER REQUIREMENT WOULD BE EXCESSIVE AND OUT OF CONTEXT WITH THE BASIC CONCEPTS OF BLOCK GRANTS.

CYCLE AND TIMING - WHILE MANY STATE AND LOCAL GOVERNMENTS PRESCRIBE AN ANNUAL AUDIT, WE BELIEVE THAT WHEN DUE CONSIDERATION IS GIVEN TO COST VS BENEFITS, THE OPTIMUM AUDIT CYCLE FOR BLOCK GRANTS SHOULD BE TWO YEARS. WE SUGGEST, THEREFORE, THAT THE STANDARD BLOCK GRANT LEGISLATION SHOULD REQUIRE AN AUDIT NO LESS FREQUENTLY THAN ONCE EVERY TWO YEARS, BUT SHOULD CLEARLY PROVIDE THAT THE AUDIT COVER THE ENTIRE TWO YEAR PERIOD. IN ORDER TO AVOID THE AUDIT AND REPORTING PROBLEMS ASSOCIATED WITH VARYING FISCAL YEARS, WE RECOMMEND THAT THE AUDITS AND REPORTS BE REQUIRED AS OF THE CLOSE OF THE RECIPIENTS' FISCAL YEAR.

RESPONSIBILITY AND COST - BECAUSE THESE TWO ISSUES ARE SO INTERRELATED, WE THINK THEY SHOULD BE CONSIDERED JOINTLY RATHER THAN SEVERALLY. A NUMBER OF ALTERNATIVES ARE AVAILABLE.

(1) IF THE FEDERAL GOVERNMENT FINDS IT NECESSARY TO IMPOSE AN AUDIT AS A CONDITION OF ACCEPTING A BLOCK GRANT, AND MANDATES THAT THE RECIPIENT ARRANGE FOR A SEPARATE AUDIT OF THE BLOCK GRANT, THE FEDERAL GOVERNMENT SHOULD BEAR THE FULL COST OF THE AUDIT. THE LEGISLATIVE LANGUAGE SHOULD BE CLEAR AND UNEQUIVOCAL AS TO THE PROPRIETY OF THE AUDIT BEING PAID FOR DIRECTLY FROM

THE BLOCK GRANT. WE SUGGEST THAT AUDIT COSTS INCURRED ON BEHALF OF THE FEDERAL GOVERNMENT BE EXCEPTED FROM ANY LIMITATION ON STATE INCURRED ADMINISTRATIVE COSTS CHARGED TO THE GRANT.

(2) IF THE FEDERAL GOVERNMENT IMPOSES AN AUDIT AS ABOVE, BUT WILL ACCEPT AN AUDIT ARRANGED FOR BY A RECIPIENT FOR SOME OTHER PURPOSE IN SATISFACTION OF ALL OR PART OF THE BLOCK GRANT REQUIREMENT, THE FEDERAL GOVERNMENT SHOULD PAY FOR ONLY A PROPORTIONATE SHARE OF THE COMMON AUDIT COSTS, PLUS THE COSTS OF ADD-ON WORK TO MEET ANY FEDERAL PRESCRIPTION. ONCE AGAIN WE URGE THAT THE LANGUAGE BE CLEAR AND UNEQUIVOCAL AS TO PAYMENT.

(3) IF THE FEDERAL GOVERNMENT, IN KEEPING WITH THE SPIRIT OF FEDERALISM AND BASIC BLOCK GRANT CONCEPTS, PRESCRIBES ONLY THAT THE USE OF BLOCK GRANT FUNDS MUST BE AUDITED, EITHER SEPARATELY OR PREFERABLY AS PART OF AN AUDIT OF A RECIPIENT ENTITY, AND GIVES THE RECIPIENT AN OPTION AS TO WHETHER OR NOT IT WILL PROVIDE THE AUDIT, THE FEDERAL GOVERNMENT SHOULD PAY ONLY FOR ADD-ON COSTS IF THE RECIPIENT CHOOSES TO ARRANGE FOR THE AUDIT. IF THE RECIPIENT CHOOSES NOT TO ARRANGE FOR AN AUDIT, THEN THE FEDERAL NEEDS WOULD BE SATISFIED BY A FEDERALLY ARRANGED AUDIT OF THE BLOCK GRANT FUNDS.

WE RECOMMEND LANGUAGE THAT PERMITS THE USE OF EXISTING STATE LAWS, POLICIES, AND REGULATIONS IN ACCOMPLISHING OR ARRANGING FOR THE SPECIFIED AUDITS.

SINCE THE PROCESS FOR FEDERAL REIMBURSEMENT OF AUDIT COSTS HAS BEEN THE CAUSE OF CONSIDERABLE DIFFICULTY IN THE PAST, WE URGE THAT THE LEGISLATION BE PERFECTLY CLEAR THAT THE COST OF AUDIT MUST (1) BE IDENTIFIED, AND (2) BE PAID DIRECTLY FROM THE GRANT.

WE ARE SUPPORTERS OF INTERGOVERNMENTAL AUDIT COOPERATION AND FULLY SUBSCRIBE TO AND HAVE BEEN PROMOTING THE CONCEPT OF A SINGLE AUDIT TO SATISFY THE NEEDS OF ALL PARTIES. AT THE SAME TIME WE BELIEVE IN THE SOVEREIGNTY OF THE STATES AND IN THE CONCEPT OF TRUE PARTERNERSHIP. THEREFORE, WHILE ALL THREE OPTIONS WOULD BE ACCEPTABLE GIVEN ADEQUATE REIMBURSEMENT LANGUAGE, WE MUCH PREFER THE THIRD ALTERNATIVE WHICH PROVIDES AN OPPORTUNITY FOR THE STATES TO AFFIRMATIVELY DEMONSTRATE THEIR RESPONSIBILITY AND CONCERN FOR ACCOUNTABILITY IN GOVERNMENTAL PROGRAMS. IT WOULD ALSO MINIMIZE THE COST TO THE FEDERAL GOVERNMENT.

ACCEPTANCE BY FEDERAL GRANTOR AGENCY - ONE OF THE PROBLEMS THAT HAS BEEN PARTICULARLY BOTHERSOME TO STATE AUDITORS WHO HAVE PERFORMED AUDITS ON BEHALF OF FEDERAL GRANTING AGENCIES IN THE PAST HAS BEEN THE NEED TO MEET DIFFERING CRITERIA OF THE SEVERAL FEDERAL AGENCIES REVIEWING AND ACCEPTING THE AUDITS. THIS PROBLEM COULD WELL BE PERPETUATED IF EACH DEPARTMENT ADMINISTERING A BLOCK GRANT WERE GIVEN THE AUTHORITY TO ACCEPT (OR REJECT) AN AUDIT.

THE PROBLEM WOULD BE PARTICULARLY ACUTE WHERE A REPORT ON A "SINGLE AUDIT OF A STATE GOVERNMENT OR ENTITY OF STATE GOVERNMENT" WERE SUBMITTED IN SATISFACTION OF REQUIREMENTS IN MORE THAN ONE BLOCK GRANT LAW. WE RECOMMEND THAT THE PROPOSED STANDARD AUDIT LANGUAGE FOR BLOCK GRANT LEGISLATION PROVIDE FOR THE DESIGNATION OF ONE FEDERAL GRANTOR TO ACT ON BEHALF OF ALL GRANTORS IN ACCEPTING A "SINGLE AUDIT" REPORT AND AUTHORIZING PAYMENT THEREFOR.

SUMMARY

IT IS HIGHLY DESIRABLE THAT THERE BE ONE SOURCE IN LAW FOR ALL AUDITS OF FEDERAL GRANTS-IN-AID (BLOCK AS WELL AS CATEGORICAL GRANTS, COOPERATIVE AGREEMENTS, ETC.) TO PRECLUDE A REPETITION OF THE CONFUSION RESULTING FROM THE RECENT ENACTMENT OF THE OMNIBUS RECONCILIATION ACT. WE BELIEVE THAT A CONCERTED EFFORT SHOULD BE MADE TO BRING ABOUT PASSAGE OF THE AUDIT PROVISIONS OF EITHER S. 807, WHICH WAS REPORTED ON FAVORABLY LAST SPRING BY BOTH THIS SUBCOMMITTEE AND THE COMMITTEE ON GOVERNMENTAL AFFAIRS, OR HR. 4133. THOSE BILLS CALL FOR A SINGLE AUDIT OF A RECIPIENT OF FEDERAL GRANTS TO SATISFY THE NEEDS OF ALL FEDERAL GRANTING AGENCIES. PASSAGE OF EITHER BILL, OR SEPARATE ENACTMENT OF THE AUDIT PROVISIONS OF S-807, WOULD ELIMINATE THE NEED FOR AUDIT LANGUAGE IN INDIVIDUAL GRANT-IN-AID BILLS.

UNTIL SUCH TIME AS A UNIVERSAL AUDIT PROVISION IS PASSED, UNIFORM LANGUAGE APPLICABLE TO BLOCK GRANTS IS PREFERABLE TO A REPETITION OF THE MULTIPLICITY OF PROVISIONS ARISING OUT OF THE RECENT ENACTMENT OF THE BUDGET RECONCILIATION ACT. WE ARE IN SUBSTANTIAL AGREEMENT WITH THIS SUBCOMMITTEE'S PROPOSALS AND HAVE PROVIDED SPECIFIC SUGGESTIONS FOR A FEW CHANGES.

IN ADDITION, WE URGE THE SUBCOMMITTEE TO INTRODUCE AMENDMENTS TO:

(1) THE SEVERAL AUDIT PROVISIONS IN THE BUDGET RECONCILIATION ACT.

(2) ANY NEW BLOCK GRANT BILL THAT DOES NOT INCLUDE THE AUDIT LANGUAGE BEING DISCUSSED HERE TODAY.

IT HAS BEEN A PRIVILEGE TO APPEAR BEFORE YOU TODAY ON BEHALF OF THE NATIONAL STATE AUDITORS ASSOCIATION AND THE NATIONAL ASSOCIATION OF STATE AUDITORS, COMPTROLLERS AND TREASURERS.

POLICY RESOLUTIONS OF THE NATIONAL CONFERENCE OF STATE LEGISLATURES
1981 - 1982

INTERGOVERNMENTAL ISSUES

FEDERAL AUDIT PROCEDURES

Grant management, accounting and auditing procedures as described in federal management circulars have been poorly implemented and ineffectively enforced. State governments have expanded and improved their audit capabilities to a professional level equal to or exceeding those of federal agencies. Therefore, NCSL urges Congress to enact legislation which provides for (1) a single audit of each entity responsibility for the administration of both federal and state programs, such audits prepared to serve the needs of all interested parties, (2) reliance on such audits prepared by state auditors, and (3) reimbursement for such parts of single entity audits at the state level as are performed on behalf of the federal government. NCSL further urges Congress and the Office of Management and Budget to revise currently ineffective federal policies and procedures for processing these reimbursements. This position is consistent with the report of the Joint Financial Management Improvement Program and numerous studies by the General Accounting Office.

NATIONAL ASSOCIATION OF STATE AUDITORS, COMPTROLLERS & TREASURERS

RESOLUTION NO.

FEDERAL REIMBURSEMENT FOR MANDATED AUDITS OF FEDERAL GRANTS-IN-AID

WHEREAS, in 1978 Congress enacted public law which prescribes that Inspectors General are responsible for audit coverage of all programs administered by their departments (including grant-in-aid programs administered by other governments or non-profit organizations); and

WHEREAS, prior to 1979, Federal auditors had, for many years conducted grant by grant audits of Federal grant-in-aid programs which focused for the most part on "questioned costs"; and

WHEREAS, in a 1979 report the General Accounting Office found that Federal grant audits covered only 20% of grant funds and that grant by grant audits were ineffective and inefficient; and in the same year the Office of Management and Budget issued Attachment P to Circular A-102 which prescribed an audit approach designed to overcome the reported shortcomings; and

WHEREAS, attachment P transfers to the states, by fiat, the responsibility for coverage of Federal grants-in-aid through a "single audit" of a recipient entity; and

WHEREAS, state auditors have contributed freely of their time and talent to foster single entity audits; and

WHEREAS, the OMB circular burdens recipients with what essentially has been a Federal responsibility, specifies audit coverage, and dictates excessive Federal intervention in the professional decisions of state auditors contrary to the recognition of professional competence and the spirit of Federalism while at the same time refusing to facilitate payment to state auditors for audit services performed expressly for, and in response to purely Federal needs, alleging that such facilitation would be considered unwarranted intervention in state responsibilities; and

WHEREAS, the U.S. Senate Committee on Governmental Affairs noted in Report 96-972 that GAO, Treasury and the JFMIP have reported that OMB Circulars requiring reimbursement to state and local government for the added costs of meeting Federal audit needs have been ineffective; and

WHEREAS, it is not reasonable to cause 50 states to make legal and administrative changes to accommodate to ineffective Federal reimbursement procedures when several less costly and burdensome options are available at the Federal level; and

WHEREAS, under existing Federal funding procedures for the federally required component of single entity audits many state audit organizations will be unable to obtain the staff and other resources necessary to achieve the benefits of such audits; and

WHEREAS, a number of bills providing for the single audits described above have been introduced in the U.S. Congress;

(FEDERAL REIMBURSEMENT RESOLUTION, CONTINUED) (2)

NOW, THEREFORE BE IT RESOLVED, that the National Association of State Auditors, Comptrollers and Treasurers requests the Congress of the United States to specify in any legislation mandating single audits (or any other audit work by state auditors to satisfy Federal requirements) that such mandates not become effective unless and until adequate Federal funding and effective Federal reimbursement procedures have been established.

BE IT FURTHER RESOLVED that the National Association of State Auditors, Comptrollers and Treasurers requests the Director of OMB to revise existing OMB policy and procedures so as to facilitate the identification or flow to the states of Federal funds for the reimbursement of audits.

ADOPTED: August 12, 1981

APROVED: August 12, 1981

Gertrude W. Donahey
President

MUNICIPAL FINANCE OFFICERS ASSOCIATION

Policy Statement

GRANT REFORM LEGISLATION

Federal grant-in-aid assistance has experienced massive growth during the 1970s. Federal financial assistance to state and local governments rose from $20 billion in 1970 to $80 billion in 1980, an annual increase of 15 percent on the average. During the decade, the nature of federal aid also underwent many changes. These changes have, in many cases, altered the traditional relationships between our governments in our federal system by imposing overlapping planning, grant application, reporting, auditing, and other requirements on state and local government officials.

The Municipal Finance Officers Association supports efforts to streamline and simplify the grant-in-aid system. As the financial managers of our nation's states and localities, we must comply with overlapping and duplicative federal requirements on a day-to-day basis. We also recognize that efforts to reduce paperwork and relieve us of excessive administrative requirements promise to ease the burden on local taxpayers.

Numerous studies have documented the inconsistencies and inefficiencies inherent in the auditing of federal grant programs. While there has been general agreement among federal, state, and local officials concerning the establishment of single audits, successful implementation of this concept has not occurred.

MFOA feels that:

1. Congressional attention to the single audit concept would bring about the necessary leadership and direction in this area so long as the traditional rights of state and local governments in the establishment of accounting and financial reporting requirements are not altered.

2. Provisions in grant reform legislation designed to improve the audit of federal assistance programs should recognize that generally accepted accounting principles (GAAP) are established by the National Council on Governmental Accounting or its successor bodies.

3. Federal agencies should be required to rely on independent single audits which meet generally accepted auditing standards (GAAS), and these agencies should only order additional audit work when GAAS audits do not meet their needs.

4. The success of the single audit concept will depend, in large part, on the orderly reimbursement for the audit expenses which are performed on behalf of the federal government.

MFOA is strongly supportive of efforts to optimize the use of audit resources and reduce the many seemingly endless audits of grant recipients.

Adopted: June 17, 1981

DRAFT OF AUDIT SECTION

Sec. 110 (a) At least once every two years, there shall be an independent financial and compliance audit of the accounting and administrative activities of each recipient and subrecipient of funds under this Act to comply with the requirements of this Act. A financial and compliance audit (as defined by the Comptroller General of the United States in "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions") of the recipient or subrecipient, performed for other purposes will be accepted in satisfaction of this requirement.

(b) Audits required by subsection (a) shall be conducted with respect to each two-year or shorter period beginning after the effective date of program(s) authorized under this Act and coinciding with the fiscal year of the recipient.

(c) Audits required by subsection (a) shall be conducted in accordance with the Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions."

(d) Audits shall be conducted by independent auditors which are properly constituted governmental agencies or public accountants as defined in the Comptroller General's standards.

(e) Each recipient shall have the option to arrange for the required audit. Existing laws, policies, and regulations of the recipient and subrecipient may be used in arranging for the audit. If such option is not exercised, the agency head will arrange for the audit.

(f) Audit reports shall be submitted to the agency head within six months of the fiscal year end of the recipient.

(g) The agency head shall, if the independent audits arranged for by the recipient are deemed to have been performed in accordance with the standards prescribed in subsection (c), rely on those audits and shall only conduct additional audit work after justifying the need to the Comptroller General. Nothing in this subsection limits the authority of the agency head to conduct additional audits of recipients under this Act where there is evidence of fraud or other violation of Federal law.

(h) The agency head is authorized to approve payments from funds provided by this Act for any audit or part of an audit arranged for by a recipient or subrecipient, performed to meet the requirements of this Act. A portion of the funds provided under this Act shall be reserved by the agency head to serve as payment for such an audit or part of an audit.

Prepared by the staff of the
Municipal Finance Officers Association
October 5, 1981

Senator **Durenberger**. Thank you all again. The hearing will be adjourned.

[Whereupon, at 12:10 p.m., the subcommittee adjourned subject to the call of the Chair.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

97TH CONGRESS
1ST SESSION

S. 807

To reform the laws relating to the provision of Federal assistance in order to simplify and coordinate the management of Federal assistance programs and requirements, provide assistance recipients with greater flexibility, and minimize the administrative burden and adverse economic impact of such programs and requirements.

IN THE SENATE OF THE UNITED STATES

MARCH 26 (legislative day, FEBRUARY 16), 1981

Mr. ROTH (for himself, Mr. DANFORTH, Mr. DURENBERGER, Mr. COHEN, and Mr. CHILES) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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A BILL

To reform the laws relating to the provision of Federal assistance in order to simplify and coordinate the management of Federal assistance programs and requirements, provide assistance recipients with greater flexibility, and minimize the administrative burden and adverse economic impact of such programs and requirements.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Assistance Improvement Act of 1981".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act—

(1) to encourage the consolidation of Federal programs, when such consolidation is consistent with applicable statutes and would further the goals and objectives of the grant programs consolidated;

(2) to provide for the more efficient use of Federal, State, and local government audit resources;

(3) to streamline and simplify generally applicable national policy requirements attached to Federal assistance programs;

(4) to enable State and local governments and nonprofit organizations to adapt programs for Federal assistance to the particular needs of beneficiaries and the operating practices of recipients by drawing upon appropriations available from more than one Federal programs;

(5) to enable recipients to more effectively target resources toward areas of significant local need by shifting a portion of assistance funds among programs in the same functional area; and

(6) to implement several other improvements in the administration of Federal assistance.

TITLE I—CONSOLIDATION OF FEDERAL ASSISTANCE PROGRAMS

SEC. 101. (a) Title 5, United States Code, is amended by inserting after chapter 9 the following new chapter:

"CHAPTER 10—FEDERAL ASSISTANCE PROGRAM CONSOLIDATION

"Sec.

"1001. Definitions.
"1002. Examination of Federal assistance programs required.
"1003. Federal assistance program consolidation plans.
"1004. Limitations on powers.
"1005. Method of taking effect.
"1006. Effect on other laws and regulations.

"§ 1001. Definitions

"For purposes of this chapter—

"(1) the term 'agency' means an executive agency as defined in section 105 of title 5, United States Code;

"(2) the term 'consolidation plan' means a Federal assistance program consolidation plan proposed under section 1003 of this title;

"(3) the term 'Federal assistance' means any assistance provided by an agency in the form of grants, loans, loan guarantees, property, cooperative agreements or technical assistance to State or local governments or other recipients, except that such term does not include direct cash assistance to individuals, contracts for the procurement of goods and services for the United States, subsidies, or insurances;

"(4) the term 'functionally related programs' refers to those programs which fall under a single functional category as set forth in the Budget of the United States Government transmitted pursuant to section 201(i) of the Budget and Accounting Act of 1921; and

"(5) the term 'resolution' means a joint resolution of the Senate and the House of Representatives, the matter after the resolving clause of which is as follows: 'That the Congress of the United States approves the consolidation plan numbered , transmitted by the President on , 19 , including such changes as may have been subsequently proposed by the President in accordance with section 1003(e) of title 5, United States Code.', the first blank space therein being filled with the number of the plan and the second blank space therein being filled with the date on which the plan was transmitted to the Congress.

"§ 1002. Examination of Federal assistance programs required

"Prior to the beginning of each regular session of Congress, the President shall examine the various Federal assistance programs established by law in order to determine if consolidation of any such programs is necessary or desirable to accomplish one or more of the following purposes:

"(1) facilitate the adaptation of Federal assistance programs to the particular needs of beneficiaries and the operating practices of recipients in a manner consistent with congressional purposes;

"(2) promote better administration, coordination, and planning of such programs;

"(3) eliminate program overlap and duplication;

"(4) minimize administrative burdens and eliminate adverse economic impacts;

"(5) promote economy and efficiency to the fullest extent consistent with the achievement of programs goals; and

"(6) maximize program effectiveness.

"§ 1003. Federal assistance program consolidation plans

"(a) If the President, after making the examination required by section 1002 of this title, finds that consolidation of Federal assistance programs is necessary or desirable to accomplish the purposes specified in paragraphs (1) through (6) of such section, he shall prepare on or more Federal assistance consolidation plans. Each such consolidation plan shall include a declaration that the consolidation included in the plan is necessary or desirable to accomplish the purposes specified in such paragraphs and an explanation of how each program included in the plan is functionally related to the other programs included in the plan.

"(b) In each consolidation plan transmitted to the Congress under this section, the President shall—

"(1) place responsibility for administration of the consolidation plan and all of Federal assistance programs included in such plan in a single Federal agency;

"(2) specify in detail the terms and conditions under which the Federal assistance programs included in the plan will be administered, including a specification of requirement such as State and local matching for Federal funds, allotment and apportionment, financial management, planning, and eligibility to be used in the plan; and

"(3) specify the date of expiration of the consolidation plan, except that in selecting an expiration date under this paragraph the President shall specify a date which—

"(A) except as provided in subparagraph (B) of this paragraph, is not earlier than the earliest date and not later than the date on which the authorizations of appropriations for any of the Federal assistance programs consolidated under the plan expire; and

"(B) is not later than four years after the effective date of the plan.

"(c) The President shall include with each consolidation plan transmitted to the Congress under this section a message which describe (1) the differences between the terms and conditions of the individual Federal assistance programs to be consolidated under the plan and the terms and conditions that will be applicable to such programs after the consolidation plan becomes effective, and (2) the reasons for selecting the terms and conditions used in the consolidation plan.

"(d) The President shall transmit each consolidation plan to both Houses of Congress on the same day and to each Houses while it is in session, except that—

"(1) the President may not transmit a consolidation plan to the Congress within thirty days of continuous session of Congress after the transmission of a previous consolidation plan concerning one or more programs which fall under the same subfunctional category as set forth in the Budget of the United States transmitted pursuant to section 201(i) of the Budget and Accounting Act of 1921; and

"(2) not more than three consolidation plans may be pending at one time before a committee of the Congress designated pursuant to section 1005(d)(1).

"(e) Before a resolution with respect to a consolidation plan has been ordered reported by a committee designated pursuant to section 1005(d)(1), in either the Senate or the House of Representatives, the President may make modifications or revisions of the plan, which shall thereafter be treated as part of the consolidation plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this chapter.

"(f) Within sixty days of continuous session of Congress after the beginning of each Congress, the President shall prepare and transmit to the Congress a report concerning the administration of this chapter.

"§ 1004. Limitations on powers

"(a) A consolidation plan may not provide for, and may not have the effect of, (1) consolidating any Federal assistance programs which are not functionally related, or (2) transferring responsibility for the administration of any program contained in such plan to an agency which was not responsible for the administration of any Federal assistance program included in the consolidation plan prior to the date on which the consolidation plan takes effect or, (3) providing that a group or person becomes eligible for assistance under the plan that is not eligible under one or more of the programs being consolidated or (4) excluding any purposes and goals established under the programs being consolidated from the range of activities authorized by such plan.

"(b) The authority under this title will expire five years from the date it becomes effective.

"§ 1005. Method of taking effect

"(a) A consolidation plan shall be effective upon approval by the President of a resolution which has been adopted within ninety days of continuous session of Congress after the date of transmittal of the plan to the Congress.

"(b) A consolidation plan may provide that any provision of the plan may be effective at a time later than the date on which the plan becomes effective.

"(c) On the day on which a consolidation plan is transmitted to the Senate and the House of Representatives, a resolution shall be introduced (by request) in the Senate by the Chairman of the Committee on Governmental Affairs of the Senate, or by a Member or Members of the Senate designated by such chairman; and shall be introduced (by request) in the House by the chairman of the Committee on Government Operations of the House, or by a Member or Members of the House designated by such chairman.

"(d)(1) A resolution with respect to a consolidation plan shall be referred to the committee of the Senate and the House of Representatives having primary jurisdiction over such resolution under the rules of the Senate and the House of Representatives.

"(2) Each committee of primary jurisdiction to which the resolution is referred shall consider the consolidation plan and shall make its recommendations to the Senate or the House of Representatives, as the case may be, within sixty calendar days of continuous session following the date of its transmittal to Congress.

"(3) Any resolution with respect to a consolidation plan affirmatively reported by the committee with primary jurisdiction which contains any matter within the jurisdiction of any other committee shall be referred to such other committee for a period of fifteen days of continuous session of Congress if the chairman of such other committee requests such referral no later than the day following the day on which the resolution is reported by the committee with primary jurisdiction. In any case in which such other committee fails to report the resolution within the period herein prescribed, such committee shall be automatically discharged from further consideration of such resolution on the sixteenth day of continuous session of Congress following the day on which such resolution is referred to such committee.

"(4) If the committee having primary jurisdiction over a resolution with respect to which a consolidation plan has been referred has not reported it at the end of sixty days of continuous session of Congress after its transmittal, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

"(e) When the last committee to which the resolution has been referred has reported, or has been discharged from further consideration of a resolution with respect to a consolidation plan, pursuant to (d)(3)(4), it is in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is privileged in the Senate and highly privileged in the House of Representatives and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(f) For purposes of this section and section 1003 of this title—

"(1) continuity of session is broken only by an adjournment of Congress sine die; and

"(2) the days in which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day period.

"(g) The provisions of subsections (c) through (k) of this section and of paragraph (4) of section 1001 of this title are enacted by the Congress—

"(1) as an exercise of the rulemaking power of Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in such subsections and paragraph; and they supersede other rules to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"§ 1006. Effect on other laws and regulations

"(a) To the extent that any provision of a consolidation plan which becomes effective under this chapter is inconsistent with any provision of law enacted prior to the effective date of the plan, the provision of the consolidation plan shall control to the extent that such plan specifies the provision of law to be superseded, consistent with section 1003(b)(2).

"(b) Within a reasonable time after the consolidation plan becomes effective, modifications shall be made in any regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, or other action made, prescribed, issued, granted, or performed with respect to any matter affected by a consolidation plan to reconcile any inconsistency as thereof with the consolidation plan, as set forth in that plan, but otherwise shall continue in effect.

"(c) A consolidation plan shall provide for the transfer of appropriations or other budget authority in such manner that the aggregate amount of appropriations and other budget authority available for carrying out the Federal assistance programs involved in such plan may be available for any or all such programs, and the aggregate amount of authorizations of appropriations or other budget authority for such programs shall be deemed an authorization of appropriations and other budget authority for any or all of such programs. The appropriations or portions of appropriations unexpended by reason of operation of this chapter may not be used for any purpose, but shall revert to the Treasury Department. The Office of Management and Budget shall report to the Appropriations Committees, as part of their annual budget submission, on the saving effected under the consolidation plan.".

(b) The table of chapters for part I of title 5 United States Code, immediately preceding chapter 1, is amended by adding at the end thereof the following new item:

"10. Federal Assistance Programs Consolidation.................................. 1001.".

TITLE II—FINANCIAL MANAGEMENT AND AUDIT OF FEDERAL ASSISTANCE PROGRAMS

PURPOSE

SEC. 201. It is the purpose of this title—

(1) to improve the financial management of Federal assistance programs;

(2) to promote the efficient use of audit resources;

(3) to relieve State and local governments and nonprofit organizations of the costs and paperwork burdens due to conflicting and redundant requirements of Federal assistance programs; and

(4) to provide for the establishment of consistent requirements for the financial management and audit of Federal assistance provided to or administered by State and local governments and nonprofit organizations.

DEFINITIONS

SEC. 202. As used in this title—

(1) the term "financial and compliance audit" means a systematic review or appraisal of a recipient of Federal assistance to determine and report whether

the financial operations of the recipient are properly conducted and financial reports are presented fairly and whether the entity has complied with significant compliance requirements contained in laws and regulations that can materially affect the entities' financial operations, conditions, and reports.

(2) The term "public accountants" means certified public accountants, or licensed public accountants licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State.

(3) The term "independent auditors" means properly constituted State and local government audit agencies or public accountants, who have no direct relationship with the functions or activities being audited or with the business conducted by any of the officials of the government agency or unit being audited.

(4) The term "generally accepted auditing standards" means the auditing standards set forth in the financial and compliance element of the "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions", issued by the Comptroller General of the United States and incorporating the audit standards of the American Institute of Certified Public Accountants.

(5) The term "Federal assistance" means any assistance provided by an agency in the form of grants, loans, loan guarantees, property, cooperative agreements or technical assistance to State or local governments or other recipients, except that such term does not include direct Federal cash assistance to individuals, contracts for the procurement of goods and services for the United States, or insurance.

(6) The term "local government" means any unit of government within a State, a county, borough, municipality, city, town, township, parish, local public authority, special district, intrastate district, council of governments, other interstate government entity, or any other instrumentality of local government.

(7) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the North Mariana Islands.

(8) The term "entity" means a first level organizational unit of a State or local government or nonprofits providing services to such unit.

(9) The term "nonprofit organization" means an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from tax-

ation under section 501(a) of such Code or any nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

(10) The term "federally recognized Indian tribe" means an organization the Bureau of Indian Affairs as defined in Public Law 93–262, 82, April 12, 1974, 88 Stat. 77.

GENERAL FINANCIAL MANAGEMENT AND AUDIT

SEC. 203. (a) In order to insure that Federal accountability systems do not impose unnecessary, conflicting, and duplicative accounting, auditing, and reporting requirements upon State and local governments, nonprofit organizations, and federally recognized Indian tribes who are recipients of Federal assistance and in order to reduce the costs, paperwork, and regulatory burdens associated with Federal assistance programs, the Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall, consistent with applicable law, develop, establish, and maintain for use by all Federal agencies standard accounting, auditing, and financial management policies, procedures, and requirements for the administration, accounting, and financial auditing of grants, contracts, cooperative agreements, and other forms of Federal assistance to State and local governments, nonprofit organizations and federally recognized Indian tribes. Any such policy procedure, or requirement shall not conflict with any applicable audit standard developed by the Comptroller General of the United States. Standard policies, procedures, and requirements developed by the Director of the Office of Management and Budget pursuant to this section shall include—

(1) terms, definitions, and conditions used in conjunction with grants, contracts, cooperative agreements, and other forms of Federal assistance to State and local governments;

(2) generally accepted accounting principles and standards as required for financial accounting and reporting;

(3) uniform requirements for assistance application forms;

(4) uniform principles and standards for sound financial management and auditing; and

(5) uniform payment policies for grants, contracts, cooperative agreements, and other forms of Federal assistance.

(b) The Director of the Office of Management and Budget shall prescribe regulations to carry out the standard policies, procedures, and requirements established pursuant to subsection (a). Any such regulations shall be binding on all Federal departments and agencies, and assistance recipients.

Such directives shall prescribe effective means to coordinate Federal, State, and local audits of assistance programs.

ACCOUNTING AND AUDITING PROCEDURES AND REQUIREMENTS

SEC. 204. (a) At least once every two years, there shall be a single independent financial and compliance audit of—

(1) State and local governments, or State and local governmental entities and the subgrantees of such State and local governments or governmental entities; and

(2) nonprofit organizations or entities of nonprofit organizations and the subgrantees of such nonprofit organizations or entities,

which receive Federal assistance. Any such audit shall include an evaluation of the accounting and control systems of the recipient of Federal assistance and of the activities by the recipient to comply with the financial and performance requirements of grants received by the recipient from the Federal Government. Audits carried out pursuant to this section shall be audits of the recipient, rather than audits of individual grants or programs. In the case of any recipient of Federal assistance which receives less than $100,000 per year, the audit required by this section shall be conducted at least once every five years, but not more frequently than once every three years, unless there is evidence of fraud or other violation of Federal law in connection with such assistance.

(b) A State government shall have the responsibility for financial and compliance audits of the State government or State governmental entities receiving Federal assistance, and the subgrantees of such government or entities. A local government shall have the responsibility for financial and compliance audits of the local government, local governmental entities receiving Federal assistance, and the subgrantees of such government or entities. A nonprofit organization shall have responsibility for financial and compliance audits of the nonprofit organization or entities of the nonprofit organization receiving Federal assistance and the subgrantees of such nonprofit organizations or entities unless by law, the State or local government has such responsibility, in which event the State or local government, as appropriate, shall have the responsibility for such audits. The audits shall be made by independent auditors in accordance with generally accepted auditing standards and shall include an opinion as to whether the recipient's accounting policies and financial statements follow generally accepted accounting principles and standards.

(c)(1) The Federal Government shall be responsible, through the quality review process established pursuant to subsection (d), for assuring that financial and compliance audits conducted by independent auditors meet generally accepted auditing standards. Nothing in this title limits the authority of Federal agencies to make audits of Federal assistance to State and local governments, State and local governmental entities, and the subgrantees of such State and local government or governmental entities: *Provided, however,* That if independent audits arranged for by State or local governments meet generally accepted auditing standards and other requirements established pursuant to subsection (d) Federal agencies shall rely on those audits and any additional audit work shall build upon the work already done.

(2) The Federal Government is responsible for conducting, or contracting (to such extent or in such amounts as are provided in appropriations Acts) for the conduct of, audits which are not financial and compliance audits.

(3) Nothing in this title limits the Federal Government's responsibility or authority to enforce Federal law or regulations, procedures, or reporting requirements arising pursuant thereto.

(d) The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall establish and approve a quality review process that will assure the proper performance of audits. Audits performed by Federal, State, or local government audit agencies which have been approved pursuant to such review process shall be accepted by all Federal agencies making and administering grants.

(e) The Director of the Office of Management and Budget shall prescribe appropriate means for the reimbursement of independent auditors for actual expenses incurred for such parts of audits as are performed as a requirement of a Federal assistance program, including provisions for—

(1) reimbursement for such expenses, either directly or through the recipient jurisdiction; and

(2) equitable financial settlements when such audits fail to meet the standard policies, procedures, and requirements developed pursuant to section 203.

TITLE III—ADMINISTRATION OF GENERALLY APPLICABLE FEDERAL ASSISTANCE REQUIREMENTS

SEC. 301. The Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VII—ADMINISTRATION OF GENERALLY APPLICABLE FEDERAL ASSISTANCE REQUIREMENTS

"STATEMENT OF PURPOSE

"SEC. 701. It is the purpose of this title—

"(1) to encourage simplification, standardization, and coordination to the maximum extent feasible in the administration of all national policy requirements which are generally applicable to Federal assistance consistent with the goals and purposes of such requirements;

"(2) to improve the procedures by which such requirements are developed, implemented, and evaluated;

"(3) to reduce the overall administrative and cost burdens of such requirements on assistance recipients; and

"(4) to eliminate those requirements that are found to be unnecessary, infeasible, or inappropriate.

"DEFINITIONS

"SEC. 702. As used in this title—

"(1) the term 'generally applicable requirement' means any requirement—

"(A) with which an assistance recipient is required to comply under Federal law or administrative rule or regulation in order to achieve national policy objectives; and

"(B) which applies to programs administered by two or more assistance agencies, regardless of whether such requirement is contained in one or more of such laws, rules, or regulations;

"(2) the term 'designated agency' means a Federal agency designated by the President pursuant to this title, or a Federal agency which has been designated by law, to coordinate the preparation and implementation of national policy assistance standards for specified generally applicable requirements and report on the implementation of such requirements;

"(3) the term 'assistance recipient' means a State or local government or other organization that receives Federal assistance;

"(4) the term 'national policy assistance standards' means a set of guidelines, statements of objectives, standards, or other documents issued to achieve the objectives of certain generally applicable requirements in a manner which is, to the greatest extent feasible, substantially uniform among affected assistance programs and is designed to take into account characteristics of classes of recipients or types of assistance;

"(5) the term 'assistance agency' means a Federal agency that administers a Federal assistance program; and

"(6) the term 'Federal assistance' means any assistance provided by an agency in the form of grants, loans, loan guarantees, property, cooperative agreements, or technical assistance to State or local governments or other recipients, except that such term does not include direct cash assistance to individuals, contracts for the procurement of goods and services for the United States, or insurance.

"ASSIGNMENT OF DESIGNATED AGENCIES

"SEC. 703. (a) Within one hundred and twenty days after the date of enactment of this title, and from time to time thereafter as he deems appropriate, the President shall designate, consistent with any applicable law, including reorganization plans, a single Federal agency to coordinate the preparation of national policy assistance standards for one or more generally applicable requirements for Federal assistance and to report on the implementation of such requirements. As determined by the President, designated agencies shall be responsible for generally applicable requirements in various subject areas such as—

"(1) labor practices requirements;

"(2) public employee standards;

"(3) equal services requirements;

"(4) equal employment requirements;

"(5) access to Government information;

"(6) procurement standards;

"(7) planning requirements;

"(8) financial and administrative requirements;

"(9) citizen participation requirements; and

"(10) environmental protection requirements.

"(b) In evaluating Federal agencies for designation under subsection (a), the President shall consider—

"(1) the relationship of the generally applicable requirement to the functions and program responsibilities of the agency.

"(2) the capacity of the agency to effectively carry out the responsibilities of a designated agency; and

"(3) the smallest number of designated agencies which is practicable for the promulgation of national policy assistance standards for implementing related generally applicable requirements.

"(c) If any generally applicable requirement is established pursuant to a statute or administrative rule or regulation enacted or adopted after the date of enactment of this title, the President shall, in accordance with subsections (a) and (b), designate a single Federal agency to coordinate preparation of national policy standards for such requirement and report on the implementation of such requirement.

"ISSUANCE OF NATIONAL POLICY ASSISTANCE STANDARDS

"SEC. 704. (a) Within one year of the date of designation by the President, each designated agency shall develop national policy assistance standards in its field of designated responsibility in consultation and cooperation with affected Federal agencies, assistance recipients, and other interested parties. If any generally applicable requirement is affected or established by a statute or administrative rule or regulation enacted or adopted after the date of enactment of this title, the President shall set a specific date for the preparation of national policy assistance standards under this section which shall be not later than one year after the date of enactment of such law.

"(b) The designated agency shall consult, in accordance with any procedures established under section 707(b) of this title, with affected assistance recipients, beneficiaries, and other interested parties at the earliest possible time after the date on which such agency is designated by the President under section 703.

"(c) National policy assistance standards for generally applicable requirements shall be consistent with applicable law and, to the maximum extent possible—

"(1) be simple and clear;

"(2) minimize the reporting required of assistance recipients consistent with the requirements of the Paperwork Reduction Act (Public Law 96-511) and the Regulatory Flexibility Act (Public Law 96-354);

"(3) minimize compliance costs and burdens such standards place upon assistance recipients;

"(4) include standard compliance procedures, provisions for technical assistance, and other facilitative procedures; and

"(5) be accompanied by a list, based on existing relevant statutory provisions, of the Federal assistance programs to which such standards apply.

"(d) Within one hundred and twenty days after a designated agency publishes national policy assistance standards prepared under this section, each assistance agency administering a Federal assistance program to which such standards apply shall implement and conform to such standards unless the President establishes, after review, a longer period for implementation of such standards in order to lessen the impact of such standards on affected assistance recipients. Each assistance agency shall be responsible for insuring that affected assistance recipients comply with such standards.

"(e) Each designated agency shall coordinate the implementation of relevant national assistance policy standards in accordance with the procedures established under section 707(b) and shall ensure that revisions or additions to such standards become effective only on the first day of each fiscal year.

"IMPLEMENTATION AND ENFORCEMENT ROLES OF FEDERAL AGENCIES

"SEC. 705. (a) The head of each assistance agency shall designate a senior official of the agency responsible for the formulation of policy relating to the administration of Federal assistance to—

"(1) coordinate compliance activities under generally applicable standards throughout the agency;

"(2) ensure the complete and active participation of the agency in the development and implementation of national policy assistance standards; and

"(3) represent the position of the agency on questions relating to generally applicable requirements and associated national policy assistance standards.

"(b) One year following the date of enactment of this title, and except as otherwise provided by law, the head of an assistance agency is authorized, in his discretion, to certify and accept State or local government laws, regulations, directives, standards, reporting requirements, and compliance monitoring and enforcement procedures if the agency head determines that such State or local government requirements are at least equal to national policy assistance standards and that such State or local government requirements are fully complied with and enforced. Nothing in this subsection limits the assistance agency's responsibility or authority to enforce

Federal law or its regulations, procedures, or reporting requirements arising thereunder. For good cause an assistance agency may rescind any certification issued under this subsection, but shall provide the State or local government with due notice prior to taking any such action and provide such government with an opportunity to demonstrate why the agency action should not be taken.

"(c) Federal agencies administering Federal assistance programs shall take appropriate action, including the provision of technical assistance, to assist affected assistance recipients in their efforts to comply with applicable national policy assistance standards.

"LEGISLATION TO REMOVE IMPEDIMENTS TO IMPLEMENTATION

"SEC. 706. (a) If a designated agency is unable to publish national policy assistance standards pursuant to section 704 due to conflicting or inconsistent provisions of law, or due to other factors which have prevented the development of such standards in accordance with the provisions of this title, the agency shall report its inability to develop such standards to the President. After receipt of such report, the President may direct the agency to prepare a proposed bill to remove any such impediments to the development of such national policy assistance standards and to submit such bill to the President for transmission to the Congress.

"(b) If the President determines, after study, that certain Federal assistance programs should be exempted from any generally applicable requirement established by statute or that basic components of any such requirement are inappropriate, inefficient, or poorly suited to effective management, he may prepare a proposed bill to repeal, restrict, or revise the scope or structure of such requirement and shall submit to the Congress his determination under this subsection and such proposed bill.

"GENERAL OVERSIGHT

"SEC. 707. (a) The President may delegate to the Director of the Office of Management and Budget or to the head of any other Federal agency responsibility for monitoring the overall implementation of this title, except that the President may not delegate the authority to name designated agencies under section 703.

"(b) In carrying out the provisions of this title, the President, or in carrying out any responsibility delegated under subsection (a), the Director of the Office of Management and Budget or the head of a Federal agency, shall—

"(1) establish a uniform procedure for the development, implementation, and evaluation of national policy assistance standards or other guidance and instructions to recipients required by this title, including provisions to ensure the active participation of assistance agencies, program beneficiaries, and assistance recipients to the maximum extent possible.

"(2) review the administration of generally applicable requirements to improve the effectiveness of such requirements, including working with the designated agencies to ensure effective application of national policy assistance standards to the requirements of particular assistance programs or to the recipients of such programs.

"(3) establish a procedure for resolving disputes and conflicts between designated agencies, assistance agencies, and assistance recipients over the preparation and implementation of national policy assistance standards.

"(4) test and evaluate techniques for certification by a State or local government that its laws, regulations, directives, standards, reporting requirements, and compliance monitoring and enforcement procedures are at least equal to national policy assistance standards. The Director shall establish policies for Government-wide use of those techniques found to be most effective and for resolution of disputes and conflicts that may arise from certification.

"(5) prepare, publish, and annually update a catalog of all generally applicable requirements and the applicable national policy assistance standards for generally applicable requirements currently in effect.

"(c) Should it become evident that implementation of a national policy assistance standard will lead to serious, unanticipated consequences or disruption of assistance programs, the President, or the Director of the Office of Management and Budget, or head of any other Federal agency delegated responsibility for monitoring the overall implementation of this title pursuant to subsection (a), is authorized to suspend the implementation of such standard for a period not to exceed one hundred and eighty days. If the suspended national policy assistance standard is mandated by statute, the President, or the Director, or the head of a Federal agency shall directly notify the appropriate committees of the Senate and the House of Representatives of the suspension and the reasons for it and, if warranted, make recommendations for legislative action.

"(d) In carrying out any responsibility delegated under this section, the President, or the Director of the Office of Management and Budget, or the head of a Federal agency shall keep the Congress fully informed of his actions and related agency activities.".

SEC. 302. Nothing in this title limits in any way any existing authority the President, the Office of Management and Budget, or the Director thereof may otherwise have under the laws of the United States, with respect to the administration of Federal assistance requirements.

TITLE IV—JOINT FUNDING SIMPLIFICATION ACT AMENDMENTS

SEC. 401. (a) Section 3 of the Joint Funding Simplification Act of 1974 (88 Stat. 1604; 42 U.S.C. 4252) is amended—

(1) by striking out "may" after the word "agreement" in subsection (b) and inserting in lieu thereof "shall";

(2) by striking out subsection (b)(1); and

(3) by renumbering subsection (b)(2) as subsection (b)(1), subsection (b)(3) as subsection (b)(2), subsection (b)(4) as subsection (b)(3), and subsection (b)(5) as subsection (b)(4).

(b) Section 5 of such Act is amended—

(1) by striking "joint management funds" in the first sentence and inserting in lieu thereof "integrated funding process".

(c) Section 6 of such Act is amended—

(1) by striking "may" in the first sentence of subsection (6)(a) and inserting in lieu thereof "shall";

(2) by striking "may" in the first sentence of subsection (6)(c) and inserting in lieu thereof "shall"; and

(3) by striking "may" in the second sentence of subsection (6)(c) and inserting in lieu thereof "shall".

(d) Section 8 of such Act is amended—

(1) by amending subsection (a) to read as follows:

"Sec. 8. (a) In order to provide for the more effective administration of funds drawn from more than one Federal program or appropriation in support of projects under this Act, there may be established an integrated funding process with respect to such project through which a proportionate share of the funds from each affected program or appropriation needed for payments to the recipients may be made available.".

(2) by amending subsection (b) to read as follows:

"(b) Any funds made available through an integrated funding process shall be subject to such arrangements, not inconsistent with this section and other applicable law, as may be entered into by the Federal agencies concerned and shall assure the availability of necessary information to those agencies and to the Congress. These agreements also shall provide that the agency administering the funds shall be responsible and accountable by program and appropriation for the amounts provided from each contributing program or appropriation and shall include procedures for determining, from time to time, whether amounts available are in excess of the amounts required, and for advising the participating agencies concerning the appropriate disposition of that excess according to the applicable appropriations, subject to fiscal year limitations. Excess amounts applicable to expired appropriations will be lapsed.".

(3) by striking out "account in a joint management fund" in the first sentence of subsection (c) and inserting in lieu thereof "integrated funding process";

(4) by striking out "from the fund" in the first sentence of subsection (c);

(5) by striking out "fund" after the words "for administering the" in subsection (c), and inserting in lieu thereof the word "process";

(6) by striking out "joint management fund" in subsection (d) and inserting in lieu thereof "integrated funds";

(7) by striking out "from such fund" in subsection (d);

(8) by striking out "a joint management fund" in subsection (e) and inserting in lieu thereof "an integrated funding process";

(9) by striking out "to" after the word "transferred" in subsection (e) and inserting in lieu thereof "for"; and

(10) by striking out "account" in subsection (e).

(e) Section 12 of such Act is amended by adding the following new subsection (7):

"(7) the term 'integrated funding process' means the administration of the aggregate amount of funds authorized by interagency agreement for disbursement to a single recipient through a single Federal disbursement method. The integrated funding process is administered on behalf of two or more Federal agencies in support of a joint funding process.".

TITLE V—INTEGRATED ASSISTANCE

SEC. 501. The Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VIII—INTEGRATED ASSISTANCE

"STATEMENT OF PURPOSE

"SEC. 801. It is the purpose of this title to increase the substantive effectiveness and management efficiency of Federal assistance programs by—

"(1) permitting recipients to exercise greater discretion and flexibility in the use of Federal assistance;

"(2) encouraging the use of simplified administrative processes and reporting requirements; and

"(3) fostering recipient initiative and innovative approaches to priorities and problems that cross existing statutory assistance categories.

"DEFINITIONS

"SEC. 802. As used in this Act—

"(1) The term 'Administrator' means the head of a Federal agency responsible for one or more Federal assistance programs.

"(2) The term 'assistance' or 'assistance program' means a grant or cooperative agreement as determined by the Administrator under the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) for which State or local governments are the sole qualified recipients.

"(3) The term 'covered program' means any assistance program for which an Administrator has responsibility which falls under a single functional category as set forth in the Budget of the United States Government transmitted pursuant to section 201(i) of the Budget and Accounting Act of 1921 and which is included in an integrated program plan.

"(4) The term 'base fiscal year' means, for each covered program, the fiscal year prior to the year in which the covered program is included under an approved integrated program plan.

"(5) The term 'integrated program plan' means a document, submitted under section 803 of this title as part of an assistance application, which sets forth a plan of activities and related expenditures to carry out the objectives of this title and the covered programs which are included.

"INTEGRATED PROGRAM PLAN

"SEC. 803. (a) Each applicant for Federal assistance under this title may—

"(1) submit an integrated program plan which represents an integrated approach to planning, development, and implementation of the covered programs;

"(2) provide for the coordination and administration of each integrated program plan by a single agency designated by the applicant's chief executive officer.

"SEC. 804. (a)(1) The Administrator shall establish requirements governing approval of an integrated program plan. These requirements shall be designed—

"(A) to increase the substantive effectiveness and management efficiency of covered programs;

"(B) to encourage and permit State and local governments to redirect a portion of the resources in the covered programs to problems and priorities of such governments that may cross existing statutory assistance categories; and

"(C) to improve the effectiveness and productivity of assistance programs by reducing rigidity, duplication of effort, and unnecessary expenditures.

"(2) In developing its integrated program plan, an applicant may propose to transfer funds among the various covered programs included in such plan, except that the applicant may in no event propose to transfer from any covered program an amount in excess of 20 per centum of the amount of assistance it was allocated for such program in the base fiscal year.

"(3) In reviewing applications under this title, the Administrator shall also consider the degree to which the applicant (i) has considered the effects of each program on the other(s) included in the integrated program plan and (ii) has, or is developing supporting data bases, planning, and evaluation processes to assist in implementing the proposed plan.

"(b) The Administrator shall complete review of the applicant's proposed plan in a timely fashion and may approve it in whole or in part. In the event of disapproval, the Administrator shall notify immediately the applicant in writing but in no instance shall such notification occur more than thirty days after the date of such disapproval. If notice from the Administrator concerning an applicant's proposed plan is not received within ninety days of its submission, the plan shall stand approved as submitted. Disapproval of an integrated assistance plan shall not in any way affect a recipient's application through the established award process for assistance covered by the integrated assistance plan.

"(c) The Administrator shall not approve an integrated program plan unless he determines—

"(1) that the objectives of this title and of the covered programs are adequately addressed therein;

"(2) that the requirements promulgated pursuant to section 804(a)(1) of this title have been met; and

"(3) that the proposed plan adequately considers cross-program consequences.

"(d) The Administrator shall not award integrated assistance to a State or local government unless the duly authorized official has signed the assistance application containing the integrated program plan.

"AUTHORITY; LIMITATIONS

"Sec. 805. (a) From sums appropriated under the covered programs, the Administrator shall award integrated assistance in accordance with the integrated program plan approved under section 804 to States and local governments to enable them to carry out the objectives of this title and of the covered programs.

"(b) An approved integrated program plan shall remain in effect for only the fiscal year in which application was made. The Administrator shall not renew an integrated program plan unless he determines, based on evaluation of the recipient's performance and its current proposed plan, that the recipient's program has and will effectively serve the purposes of this title and the covered programs included in its integrated program plan.

"SEC. 806. In developing its integrated program plan, the State shall provide for adequate consultation with the affected local governments.

"ACCOUNTABILITY

"SEC. 807. (a) The Director of the Office of Management and Budget shall, within thirty days following enactment of this title, establish guidelines which shall guide the Administrator of each agency in reviewing the integrated program plans submitted by State and local applicants. Such guidelines shall establish procedures which ensure that recipient accountability for expenditures under an approved integrated program plan is provided for by the plan as a whole in lieu of accounting for expenditures by program.

"(b) Within sixty days following the date upon which the Director issues guidelines pursuant to subsection (a), the Administrator shall provide for the receipt of integrated program plans from the State and local applicants.

"SUNSET PROVISION; REPORT TO CONGRESS

"SEC. 809. This title shall be applicable to assistance awarded for fiscal year 1982 and shall expire on September

30, 1986. The Director of the Office of Management and Budget shall submit to the Congress no later than September 30, 1985, a report describing the extent to which State and local governments have established and implemented integrated program plans, evaluating the effectiveness of covered programs, and recommendations with respect to continuing integrated assistance.".

TITLE VI—MISCELLANEOUS

SINGLE STATE OR LOCAL AGENCY OR ORGANIZATION UNIT PROVISIONS

Sec. 601. Title II of the Intergovernmental Cooperation Act of 1968 (43 U.S.C. 4214) is amended to read as follows:

"Sec. 204. Notwithstanding any other Federal law which provides that (1) a single or specific State or local governmental agency or other organizational unit be utilized or designated to receive, supervise, or otherwise administer any Federal assistance program, or (2) a single or specific pattern of internal organization or procedure be utilized or designated to administer any Federal assistance program, upon certification by the appropriate executive or legislative authority of the State or local government responsible for determining or revising the organizational structure of such government that such provisions prevent the establishment of the most effective and efficient organizational arrangements within the State or local government, the head of the Federal department or agency administering the program shall waive such provisions and approve other State and or local administrative structure or arrangements unless he determines that the objectives of the Federal statute authorizing the program will be significantly endangered. The head of the Federal agency or department shall set forth in writing the reasons for such determination and shall give the appropriate State or local govenment authority sufficient opportunity to respond.

“STANDARD MAINTENANCE-OF-EFFORT REQUIREMENT

“Sec. 205. (a) Notwithstanding any other provisions of law, all requirements of Federal assistance programs intended to insure that the granting of Federal assistance to State and local goverments will not result in a reduction in relevant State or local governmental expenditures or the substitution of Federal funds for State and local funds previously made available for the activities aided are hereby repealed.

“(b) When the Congress hereafter desires to ensure that the granting of Federal assistance to State and local governments will not result in a reduction in relevant State or local governmental expenditures or the substitution of Federal funds for State or local funds previously made available for the activities aided, the Congress shall incorporate in the legislation authorizing such a maintenance-of-effort provision providing that—

"(1) the amount available for expenditures by such State or local government or by its subgrantees for the activities aided for the fiscal year for which the assistance is sought shall not be less than the average expended based on recurring expenses for such activities during the preceding two fiscal years; otherwise, the Federal amount will be reduced proportionate to the State or local reductions below such an average; and

"(2) on the request of an assistance recipient, the Federal agency head may waive the requirement established by paragraph (1) if he determines, in accordance with regulations and criteria established by the Office of Management and Budget, that application of the requirement would result in extraordinary fiscal hardship.

"(c) For the purpose of standardization, the Congress shall limit itself to the elements specified in subsection (a) in the prescription of maintenance-of-effort requirements, and shall declare that such elements apply to subrogated funds.

"STATE OVERSIGHT OF FEDERAL FUNDS

"SEC. 206. Notwithstanding any other provision of law, nothing in any Federal statute or implementing regulation shall diminish or negate, nor shall be construed as superseding, procedures established by State law or practice for appropriating and expending Federal assistance funds, for designating, consistent with section 203 of this Act, the State agency to administer or implement any grant program, or for reviewing State plans and applications for Federal assistance.".

WILLIAM S. COHEN
MAINE

United States Senate
WASHINGTON, D.C. 20510

October 7, 1981

The Honorable David Durenberger
Chairman
Subcommittee on Intergovernmental Relations
Committee on Governmental Affairs
3306 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Dave:

I commend you for undertaking an effort to propose standard language that will guide the development of all future block grant legislation. While block grants are valuable in providing flexibility to the State and local governments, transitional and administrative problems raised by the consolidation of federal programs must be addressed.

Recently, the Maine State Board of Education contacted me expressing its concern regarding a requirement of the Education Consolidation and Improvement Act of 1981 that the Governor establish a new educational advisory committee to make proposals for the use of funds allocated under the education block grant. The Board has proposed that it be designated as the advisory committee, in order to avoid duplication and additional administrative expenditures.

I understand that your hearing did not focus directly on specific elements of particular consolidation proposals. I believe, however, that the Maine School Board's suggestion illustrates a problem of excessive bureaucracy which block grants in general may present. This problem could be reduced through standard language, applied to all block grant legislation, stating that existing state

The Honorable David Durenberger
Chairman
Subcommittee on Intergovernmental Relations
October 7, 1981
Page 2

advisory bodies should, whenever possible, be given preference in the designation of the federally-mandated advisory committees to oversee use of block grant funds.

I would appreciate inclusion of the correspondence from the Maine School Board of Education in the hearing record.

With best wishes, I am

Sincerely,

Bill

William S. Cohen
United States Senator

WSC:mbg

State Board of Education
STATE HOUSE
AUGUSTA, MAINE 04333

SEP 23 '81

September 23, 1981

The Honorable William S. Cohen
United States Senator
1251 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Cohen:

The members of the State Board of Education, after careful review of the Consolidation Act of 1981, wish to express our disappointment and dismay with the federally-mandated establishment of yet another advisory committee on education.

A part of the Consolidation Act, which puts together the funding and responsibilities formerly distributed in 32 separate categorical programs, also requires the Governor to establish a new educational advisory committee to make proposals for the use of the small amount of money which remains available to the state after the budget reduction and consolidation. This provision of the law undercuts the basic responsibility and authority assigned to the State Board of Education in Maine.

Maine statutes require that the State Board of Education be broadly representative of the public and that it take full responsibility for leadership and direction of education in the State of Maine. With the exception of the VTI's, which are the responsibility of the State Board of Education, public higher education is managed by the University Board of Trustees. These two bodies, appointed by the Governor and confirmed by the State Legislature, are the appropriate agencies to provide advice and counsel to the Governor and the Legislature concerning educational expenditures under the Consolidation Act of 1981.

The proliferation of boards, committees and agencies under federal legislation has been a persistent and expensive problem for the public bodies charged with responsibility for educational activities at the state level. They are a duplication of existing boards and add to the red tape which already frustrates public education. Their expenses must be paid from dwindling funds which in Maine would otherwise be used for educational purposes.

We are requesting Governor Brennan to designate the State Board of Education as the federally-mandated advisory committee. We are further requesting that he contact U.S. Secretary of Education Terrell Bell to waive other requirements.

We respectfully call this matter to your attention and we solicit your interest and concern that no additional advisory committees be superimposed on public boards fully capable of providing the advice and counsel which may be necessary.

Yours truly,

Joyce Roach

Joyce Roach
Chairman

JR:pdg

cc Gov. Brennan
SBE Members

State Board of Education
STATE HOUSE
AUGUSTA, MAINE 04333

September 23, 1981

The President
The White House
Washington, D.C.

Mr. President:

The members of the State Board of Education, after careful review of the Education Consolidation and Improvement Act of 1981, wish to express our dissatisfaction with the establishment of yet another advisory committee on education. That consolidation act puts together funding and responsibilities formerly located in 32 separate categorical programs.

Part of the legislation requires the Governor to establish a new educational advisory committee to make proposals for the use of the small amount of money which remains available to the state after the budget reduction and consolidation. This provision of the law further undercuts the basic responsibility and authority assigned to the State Board of Education in Maine.

Maine statutes require that the State Board of Education take full responsibility for leadership and direction of education in the State of Maine. With the exception of the vocational-technical institutes, which come under the purview of the State Board of Education, public higher education is managed by a duly-appointed board of trustees. These two appointed bodies are the appropriate agencies to provide advice and counsel to the Governor and the Legislature concerning educational expenditures under the Consolidated Education Act of 1981.

One of the persistent problems has been the proliferation of boards, committees and agencies under federal legislation which undercut existing and established public bodies charged with responsibility for educational activities at the state level. That new advisory committee is unnecessary and unwarranted in light of the existing agencies to accomplish the purposes of the consolidation act.

During your campaign and subsequent to your election, you have repeatedly indicated your opposition to the federal imposition of boards, committees and agencies where appropriate committees are already at work. This newly-created advisory committee is entirely out of keeping with your stated position in these matters.

We respectfully call this fact to your attention and earnestly solicit your interest and concern to assure that no additional advisory or other committees will be superimposed on existing state agencies fully capable of providing the advice and counsel necessary to accomplish our important work.

Respectfully yours,

Joyce Roach for the
Maine State Board
of Education

JR:pdg

cc Sec. T. Bell
Rep. O. Snowe
Rep. D. Emery
Sen. W. Cohen
Sen. G. Mitchell
Gov. J. Brennan

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-201636

NOV 13 1981

The Honorable David Durenberger
Chairman, Subcommittee on Intergovernmental
Relations, Committee on Governmental Affairs
United States Senate

Subject: Need to Strengthen Audit Oversight on Existing and Future Block Grant Programs (AFMD-82-25)

Dear Mr. Chairman:

As requested by your office on October 30, 1981, this report summarizes the results of our recently completed review of the title XX social services grant program. We believe this information will be of assistance to the Subcommittee in its current deliberations on proposed legislation designed to strengthen audit oversight on existing and future block grant programs.

The objective of our review was to assess the quality and effectiveness of the States' financial management control systems in providing adequate accountability over Federal funds. Although our specific findings deal with title XX as a categorical grant program, we believe the weaknesses we identified--particularly those related to audit coverage--have a direct bearing on the issues being raised by the Subcommittee in its efforts to improve accountability and audit oversight on block grant funds for which the States have stewardship.

Title XX was selected for review because it was a State-operated grant program designed to give States and their local governments maximum flexibility in planning, implementing, managing, and administering a variety of social services programs tailored to the special needs of their own citizens. Because of the degree of flexibility inherent in the program, the cognizant Federal agency has had to rely heavily upon the States' financial management control systems for ensuring accountability over billions of dollars of program expenditures. We reviewed the grant management and administrative controls in four States with title XX awards totaling $555.8 million in fiscal 1979. To test the effectiveness of these controls we performed detailed financial and compliance reviews of a judgment sample of 98 purchase-of-service contracts totaling $106 million, or about 20 percent of the total value of purchase-of-service contracts awarded in the four States.

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We also reviewed 51 audit reports and corresponding workpapers prepared by the State auditors and independent public accountants to determine the adequacy of audit coverage of title XX expenditures. We used the Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" (GAO's "yellow book" standards) as our measure of adequacy.

RESULTS OF OUR REVIEW

We found that the States' financial management and internal controls have been largely ineffective in protecting against fraud, waste, and abuse and providing proper accountability over Federal funds. For example, we found about $13.2 million of improper and unjustified costs were claimed under 60 of the 98 contracts we reviewed. This represented about 12 percent of the total value of the contracts sampled. The problems noted included such abuses as:

--Contractors claiming reimbursement for the same costs under two separate Federal grant programs, or twice under title XX.

--Contractors billing for reimbursement on the basis of estimated rather than actual costs without making the necessary yearend adjustments to reflect actual costs.

--Contractors inflating their title XX billings by failing to offset program income (service fees paid by beneficiaries) against program costs.

--Contractors using billing rates that exceeded those agreed to in fixed unit price service contracts.

--Contractors receiving reimbursement for costs incurred prior to the execution of a service contract.

--Contractors receiving reimbursement in amounts far exceeding the contract ceiling and, in some cases, receiving retroactive contract amendments to accommodate such overruns.

Our analysis of these problems revealed that they are not isolated instances or peculiar to any one State. Almost half of the contracts reviewed in each of the four States contained problems of a financial nature, although admittedly not to the same degree of materiality. Many of the problems, furthermore, were found to exist in previous or subsequent contract years and appeared to be "the normal way of doing business" in these States.

Finally, some of the conditions not only violated Federal regulations, but also violated the States' own policies and procedures.

Most of the improper grant practices and unauthorized or questionable costs discussed above could have been avoided through more effective State oversight and audit activities. However, weaknesses in the financial management control systems of these States allowed the abuses to go undetected. Specifically, our review disclosed that some States failed to audit or otherwise oversee the financial activities of all, or a vast majority, of their title XX contractors. Most of the unauthorized or questioned costs found during our contract review were in those States where audits were generally not being performed.

In addition, in those instances where the States did conduct audits of title XX contractors, they generally failed to meet the GAO yellow book criteria for acceptable financial and compliance auditing. Of the 51 audits reviewed, for example, 32--or 63 percent--were judged deficient when compared with these standards, and were therefore of questionable value in ensuring accountability over Federal program funds. In general, the State audits were more deficient than those conducted by independent accounting firms. Of the 35 State audits reviewed, for instance, 28 failed to review the contractors' internal controls, 21 failed to address Federal and/or State compliance issues, and 24 had inadequate documentation to support the reported findings. The only major deficiency in the independent accounting firm audits was that 8 of the 16 reviewed failed to address compliance issues.

CONCLUSIONS AND RECOMMENDATIONS

Although some of the financial and compliance deficiencies discussed herein are no longer at issue under the new title XX block grant legislation, the issues we raised on the adequacy of the States' financial management control systems directly support the need to strengthen the audit and administrative management provisions of existing and proposed block grant legislation. Clearly, the Administration's desire to decentralize the accountability function and minimize Federal intervention in selected programs in no way lessens the need for the Federal Government to establish at least some minimum criteria for proper block grant management--especially in the areas of financial and compliance oversight. Furthermore, our findings clearly show that without some mechanism for audit evaluation there is no assurance that the minimum standards will be met and proper accountability achieved.

In summary, we believe that regardless of the type of mechanism used to disburse funds and administer Federal programs, the Federal Government still has an obligation to ensure sound financial management controls over Federal funds by assessing the adequacy of State internal controls, including the adequacy of audits performed pursuant to block grant legislation, whether conducted by State or local auditors, or independent accounting firms. We believe that, as a minimum, this type of coverage is essential for meeting the Federal Government's responsibility to maintain the integrity and accountability of taxpayer funds.

Accordingly, we recommend that in the Subcommittee's deliberations on proposed amendments to the block grant cross-cutting legislation, consideration be given to:

--Expanding the audit and oversight provisions contained in the cross-cutting legislation to include all block grants under the Omnibus Budget Reconciliation Act.

--Making GAO's yellow book standards for financial and compliance audits mandatory for State, local, and independent public accountant audits of block grant programs by deleting the phrase "insofar as is practicable."

--Requiring the establishment of an audit quality review process at the Federal level to ensure that the audit organizations, reports, and the audit work itself meet the GAO yellow book standards.

--Including subrecipients under the audit requirements of the proposed amendments to the cross-cutting legislation, and clarifying the definition of subrecipients to include purchase-of-service contractors.

In making the above recommendations, it is not our intention that failure to comply with the standards would automatically result in cutoff of funds. Instead, we would recommend that the cognizant executive branch agency be given the discretion necessary to evaluate the significance of any deviation, and to take such remedial action as seems warranted under the circumstances.

As arranged with your office, we did not obtain agency comments on this report. Also, unless you publicly announce its contents earlier, we plan no further distribution of this report until 15 days from the date of the report. At that time we will send copies to interested parties and make copies available to others upon request.

We would be happy to draft the appropriate legislative language should the Subcommittee decide to adopt our recommendations. We appreciate the opportunity to be of assistance to the Subcommittee on this most important matter. Please let us know if you have any questions or need any additional assistance.

Sincerely yours,

Charles A. Bowsher

Comptroller General
of the United States

Shelby County Government
William N. Morris, Jr., Mayor

September 29, 1981

Honorable James Sasser
2104 Dirksen Senate Office Building
Washington, D. C.   20510

RE: Grant Reform -- Language on Future Block Grants
(Hearings Scheduled on October 6th)

Dear Jim:

Shelby County Government supports the policy position of the National Association of Counties which urges block grants go directly to local government rather than states.

However, if the Congress continues to react favorably to the administration's policy of directing block grants to state government, it is essential the federal government insure the involvement of general purpose local governments throughout the block grant process.

The following underlined language is recommended for inclusion in pending grant reform legislation applicable to block grants to states:

SECTION 103(c): In compiling the statement required by subsection (a), each applicant for funds authorized by this act, shall confer with and describe the method used to include elected officials of general purpose local governments and organizations representing such units in each step of the state's proposed use of funds process. The statement shall reflect the recommendations resulting from this involvement of elected officials of general purpose local governments and organizations representing such units, and shall provide for public participation for all other persons affected by the proposed use of such funds.

SECTION 106(b): The recipient shall allocate funds provided under this Act following consultation with general purpose local government in accordance with the applicable state law, regulation, direction, and standard provided for the allocation of such funds.

Honorable James Sasser
September 29, 1981
Page two

SECTION 107(a): Any recipient of funds provided under this Act which is also a state government may, following consultation with general purpose governments, designate a state agency as the agency responsible for the fiscal management and administration of funds received under this Act.

SECTION 109(b): From funds provided under this Act, each recipient which is also a state government, shall make grants to each subrecipient which is a general purpose local government within the state, where such subrecipient received or has the capacity to receive funds under one or more assistance programs, the authorizations of which were discontinued under this Act. General purpose local government shall receive preferential status in the state governments designation of subrecipients.

SECTION 110(d): The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, and state and local public interest groups, shall establish and approve a quality review process that can be used to establish the capability of an audit organization to perform in accordance with the Comptroller General's standards.

SECTION 110(g): In fourth (4th) line, put period after "audits" and delete words "and any additional audit work shall build upon the work already done."

SECTION 114(b): Regulations promulgated by an agency pursuant to the programs authorized by this Act shall be so promulgated in consultation with state and local public interest groups and recipients of funds under this Act which are also state governments.

As explanation, all the recommendation except for two, are designed to involve general purpose local governments in the total state block grant process. The two exceptions involve the elimination of regional planning and coordination agencies in Section 103(s) because they are not general purpose local governments and the deletion in Section 110(g) because no "additional audit work" should be necessary beyond that described in the rest of the wording of the section.

As always, your efforts in our behalf are deeply appreciated. Sure wish the Congress was more attentive to the recommendations of ACIR.

Best wishes for the future.

Sincerely,

Clifford L. Tuck, Administrator
Shelby County Intergovernmental
Coordination Office

CLT/cf